

Appeal Decision

Site visit made on 27 April 2021

by A Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2021

Appeal Ref: APP/W2465/W/20/3255584

161 Harrington Street, Leicester LE4 6ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Manharbhai Mohanbhai Patel against Leicester City Council.
 - The application Ref 20200439 is dated 6 March 2020.
 - The development proposed a two-storey side extension and porch to the front.
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Decision

1. The appeal is dismissed and planning permission is refused.

Main Issues

2. The appellant lodged the appeal on 7 July 2020. The Council have provided an officer report which sets out their views on the proposal. Based on the conclusions of that report, the main issues are
 - whether the proposal would provide acceptable living conditions for its occupiers with regard to the provision of private outdoor amenity space; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Living conditions

3. The existing dwelling has a small rear garden which is edged by a row of very tall trees along the rear boundary. The Council measure the garden space, including a thin wedge of land to the side of the existing garage, as being around 70m². The extension would have a greater footprint than the garage to be removed and the Council say this would reduce the size of the garden to about 62m². The appellant does not dispute these figures.
 4. The advice in the Council's Residential Amenity Supplementary Planning Document (the 'SPD') is that 2 bedroom houses should have 75m² of rear garden space. Clearly the existing garden already fails to meet this standard. The proposal would reduce the size of the garden further and add two large rooms illustrated as bedrooms on the plans. Although the SPD does not advise the size of garden required for a 4 bedroom house, it is evident that the remaining garden, which would be substantially smaller than that required for a 2 bedroom house, would not be sufficient for the resultant 4 bedroom house. The fact that the garden is severely overshadowed by the tall trees along the
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south boundary also adds to my view that the outdoor amenity space would not be acceptable. As such, the development would fail to provide satisfactory living conditions for the occupiers of the property.

5. The appellant has suggested permitted development rights could be withdrawn. However, as the garden area is already insufficiently sized, withdrawing rights to construct more buildings would be of no benefit.
6. The proposal would fail to comply with CS Policy 3 of the Leicester Core Strategy which requires development to be high quality and well designed. It would also conflict with the advice in the National Planning Policy Framework which says that developments should have a high standard of amenity for existing and future users. There is no direct conflict with policy PS10 of the City of Leicester Local Plan as that does not refer to the provision of amenity space.

Character and appearance

7. The appeal property is at the end of a short terrace of four houses, with its detached single garage to its side. The street is characterised by similarly short terraces with the gaps between each terrace occupied by garages or single storey buildings. Due to the lack of any first floor elements, the gap between the appeal property and No. 159 appears considerable and is similar to the gap between Nos. 151 and 153. However, gaps between other terraces are not as large, such as that between 167 and 169, 132 and 130, and 145 and 143. As such, although gaps between terraces are prevalent, the substantial width of the space between the appeal site and its neighbour is not a common feature in the street scene.
8. The two-storey extension would narrow the gap to No. 159. Nonetheless, a notable gap would be retained, albeit largely on the neighbour's side of the boundary, and hence the general character of the street scene would not be harmfully affected.
9. Also, although the extension would have a substantial width, it would not be as wide as the host dwelling and the Council advise that in this regard the development would meet the guidance in the SPD. Furthermore the ridge of the extension would be set down from the ridge of the main house and the first floor element would be set back from the existing face of the dwelling by 0.5m and by more from the part of the façade containing the bay window. The Council's claim that the extension should be set back by 1m would only be required by the SPD if the extension was also to be built up to the side boundary, which is not the case here. I consider that due to the set back of the first floor, its lower ridge height and its modest width, the development would be subservient to the main house.
10. Overall, the extension would not appear unduly overdominant in the street scene and hence it would not harm the character and appearance of the area. It would, in this respect therefore, comply with CS Policy 3 and policy PS10 which seeks to protect the visual quality of an area.

Conclusion

11. Although the development would not harm the character and appearance of the area, it would fail to provide acceptable living conditions for its occupiers. The proposal would conflict with the development plan taken as a whole and there

are no material considerations that indicate the decision should be made other than in accordance with the development plan.

12. Therefore, for the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed and planning permission refused.

A Owen

INSPECTOR