



Appeal Decision

Site Visit made on 14 September 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/A2335/D/21/3278084

17 Derwent Road, Lancaster LA1 3ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs and Mrs Thompson against the decision of Lancaster City Council.
 - The application Ref 21/00212/FUL, dated 16 February 2021, was refused by notice dated 13 April 2021.
 - The development proposed is the demolition of the existing rear extension and conservatory and the erection of a new single storey extension. The demolition of the existing garage and the erection of a new workshop building. Associated landscaping works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. I have had regard to the Framework in my decision and I am satisfied that this has not prejudiced any party.
3. The statement of case and supporting evidence relates to the surname 'Thomas', however the application form and the appeal form both stipulate that the application and appeal was made under the surname 'Thompson'. I have therefore dealt with the appeal on this basis.

Main Issue

4. The main issue in this appeal is the effect of the proposed extension on the living conditions of occupants at No.19 Derwent Road (No.19), with particular regard to overshadowing and loss of light.

Reasons

5. The appeal site is a semi-detached hipped roof bungalow located within a predominantly residential area. The property has been previously extended, and a rear conservatory is in situ. The proposal seeks the demolition of the existing conservatory to facilitate the erection of a rear single storey gabled roof extension. The proposal also includes the demolition of an existing garage and replacement with a workshop building with additional works to the driveway.
6. The Council advise that the design of the workshop would be acceptable, particularly as the scale would not be excessive and it would be set back within

the garden area. The use as a non-commercial domestic workshop would not cause adverse harm to the living conditions of neighbouring occupiers, and a suitably worded condition could control the use. Therefore, I have no reason to disagree with the Council's assessment. Moreover, the Council confirm that the building itself could be constructed under permitted development rights.

7. However, the proposed rear extension would be sited almost along the common boundary with No.19 with a limited gap resulting in it being closer than the existing conservatory. The proposed extension would be of a substantial size, projecting a considerable distance from the rear of the original dwelling and spanning across almost the whole rear elevation. It would be larger in depth, increased in mass and would introduce a higher roof design, unlike the conservatory which has a flat roof, smaller depth and is relatively lower on the eaves line along the boundary with No.19.
8. No.19 has a rear ground floor window, which is in close proximity to the common boundary and is also set back / inset from the rear elevation of the property. As such, the proposed extension, due to its proximity to the boundary, substantial projection, massing, and height would result in the extension infringing across the horizontal plane of the window. The Council confirm that the proposal would cut across at a 45-degree line, occurring 1.5m from the neighbouring properties rear elevation. I have no evidence to the contrary. Thus, the proposed extension would lead to substantial overshadowing and loss of daylight to this window.
9. Furthermore, I was able to see as part of my site visit the position and siting of the window on the neighbour's property within their garden. Given that the window is set back in the rear elevation, the massing of the proposed extension directly along the boundary would result in a tunnelling effect between the extension and neighbouring property. This would add to the adverse impact of the overshadowing and loss of light to the window.
10. I acknowledge that views afforded from this window are already restricted to a degree. Nonetheless, the proposed extension in comparison to the existing conservatory and block painted wall would exacerbate this situation to an unacceptable degree on the living conditions of the occupier at No.19, with regard to additional overshadowing. Moreover, the proposed extension would be significantly higher, and project further than the block painted wall, which did very little to screen the existing conservatory. It would appear as a solid form, rather than the translucent nature and materials of the existing conservatory.
11. For the reasons given above, I conclude that the proposed extension would cause significant harm to the living conditions of the neighbouring occupier at No.19, with particular regard to overshadowing and loss of light. It would be contrary to Policy DM29 of A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD, 2020. Amongst other things this policy expects development to ensure there is no significant detrimental impact to amenity in relation to overshadowing, visual amenity, privacy, overlooking, massing and pollution.
12. Moreover, it does not accord with Chapter 12 of the Framework in that it ensures planning decisions and development has a high standard of amenity for existing and future users.

Other Matters

13. Although the appellant has discussed the proposals with neighbouring occupiers, and states they are satisfied with the proposed development. The absence of objections or lack of, does not outweigh the harm caused by the proposed extension that I have identified in my reasoning above.
14. Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health conditions of the individuals concerned. However, on the evidence before me, I have no doubt that the proposal would be a benefit for the appellant and that it would lead to their improved living conditions. These are personal circumstances to which I attribute weight in favour of the appeal.
15. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
16. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that the existing and future living conditions of the occupiers of the neighbouring property can be reasonably safeguarded. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the appellant's human rights. Therefore, whilst I acknowledge the personal circumstances of the appellant, I conclude that these are not matters which outweigh the harm that would be caused by the proposal in respect of my aforementioned conclusions on the main issue.

Conclusion

17. The proposed extension would conflict with the development plan and the Framework, taken as a whole and there are no other material considerations, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

K A Taylor

INSPECTOR