



Appeal Decision

Site visit made on 14 December 2021

by Katherine Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2022

Appeal Ref: APP/N4720/D/21/3283602

22 The Haven, Whitkirk, Leeds LS15 7AT

- 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 Mr John Wheelhouse against the decision of Leeds City Council.
 - The application Ref 21/05245/FU, dated 14 June 2021, was refused by notice dated 3 August 2021.
 - The development proposed is a two storey side extension and a single storey rear extension
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Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension and a single storey rear extension at 22 The Haven, Whitkirk, Leeds LS15 7AT in accordance with the terms of the application, Ref 21/05245/FU, dated 14 June 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 2105/200/MSS.
 - 2) The extension hereby permitted shall not be occupied until the south-eastern pane of the first floor oriel window and the windows on the side elevation at first floor level shown on the plan hereby approved have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
 - 3) The external materials to be used in the construction of the extension hereby permitted shall match those used in the existing dwelling.
 - 4) The 2-metre-high fence on the rear boundary shall be retained and maintained as such for the lifetime of the development.

Preliminary Matters

2. At the time of my site visit, I saw that the development had commenced. I note that the extension that has been constructed differs slightly from that which is shown on the submitted plans. I have considered the appeal on the basis of the information shown on the plans and not what has been constructed on site.

3. There is an extant planning permission (20/04962/FU) which was approved by the Council and represents a significant fallback position. The proposed development is very similar to this development which was granted in December 2020.
4. The council's refusal reason refers to the living conditions of the occupants of 22 The Haven which is the appeal property. The officer report however refers to the effect on living conditions of the occupants of 20 The Haven and I have determined the appeal on that basis.

Main Issues

5. The main issues are the effect of the development on:
 - The character and appearance of the host dwelling and the surrounding area; and
 - The living conditions of the occupants of 20 The Haven with regard to overlooking.

Reasons

Character and Appearance

6. The appeal site is a semi-detached house within the turning head of a cul-de-sac of modest sized houses. The appeal site is wedge-shaped, backing onto other residential properties. In comparison to others in the area it occupies a very small plot. The area is characterised by semi-detached and detached houses, of a similar age, which are set behind low front walls and short front gardens. Many of the houses have been extended and improved over time but retain a relatively uniform style.
7. The disputed parts of the proposal are the chamfered elevation on the side of the property, the insertion of windows in the side elevation, the design of the roof of the single storey extension and the gable feature on the two-storey extension. The Council are concerned that the chamfered corner would result in compromising the extended building's rectilinear form. The chamfered element is a small part of the overall extension and its angle is relatively shallow. Whilst the appeal property's location in the head of a small cul-de-sac on a wedge-shaped plot means that the resulting eaves line would not be parallel to the ridgeline, it would be neither prominent nor harmful in the street scene.
8. The rear elevation of the proposed development is shown without a window above the ridge of the proposed single storey extension but there is one shown on the proposed floor plans. Whilst this is therefore a discrepancy, does not indicate that there would be a conflict between the ridge and the window. Additionally, the change to the design of the roof from the approved scheme on this part of the proposal has neither a harmful visual impact on the host dwelling nor the surrounding area. The alteration from the approved hipped roof on the two-storey extension to a gable does not materially alter the bulk to the extension and similarly has no adverse visual impact on the character and appearance of the host dwelling or the surrounding area.
9. Accordingly, the proposed development would not fail to respect the character and appearance of the host dwelling and the wider street scene. As such, I find no conflict with Policy P10 of the Leeds City Council Core Strategy (CS) 2019,

saved Policies GP5 and BD6 of the Unitary Development Plan Review (UDPR) or Policy HDG1 of the 'Householder Design Guide' Supplementary Planning Document (SPD) 2012 which seek to protect the character and appearance of a locality through high quality design.

Living Conditions

10. The proposed first floor windows in the side elevation serve a bathroom and provide a secondary window to a bedroom. The only window to the bedroom in the approved scheme was an oriel window in the rear elevation which was conditioned to be obscured on the southeast face and clear glazed on the south west face. The same oriel window is also proposed in the scheme before me, and I observed on site that this window has been installed. The matter in dispute therefore is whether a secondary window in the side elevation is acceptable in terms of the effect on living conditions of the occupants of 20 The Haven, which it would face towards.
11. The window would allow additional light into the room but would also result in some overlooking towards the garden of No 20. The SPD advises that upper floor side windows which overlook neighbouring properties will only be permitted if obscure glazed or if they serve non-habitable areas.
12. I note that the current occupiers of No 20 have stated that they are not concerned about the impact of the window. However, I have to be mindful that occupation of this property might change in future. I therefore consider that if the window were to be fitted with obscured glazing it would provide additional light into the bedroom without compromising the living conditions of the occupiers of the garden of No 20, with regard to overlooking their private amenity space.
13. Consequently, with obscured glazing in place, there would be no conflict with Policy P10 of the Leeds City Council Core Strategy (CS) 2019, saved Policy GP5 of the Unitary Development Plan Review (UDPR) or Policy HDG2 of the 'Householder Design Guide' Supplementary Planning Document (SPD) 2012.

Other Matters

14. I have had regard to the representations made on the application with respect to the impact on the living conditions of the occupants of properties on Selby Road to the rear of the appeal property. However, the effect on the occupants of these properties would not be materially different to the approved development. I have afforded this matter very little weight.

Conditions

15. I have considered the Council's suggested conditions in light of the National Planning Policy Framework and Planning Practice Guidance. I agree that a plans condition is necessary and reasonable in the interests of certainty. I have also attached a matching materials condition which is necessary and reasonable in the interests of character and appearance. As the development has commenced it is not necessary to impose the standard time limit condition in this case.
16. As set out above, I have included a condition which ensures that the side windows and the south eastern face of the oriel window are obscured glazed as this is necessary to protect the amenity of the occupiers of neighbouring

properties. I have also included the same condition as the 2020 permission in relation to the retention of a 2m high fence on the rear boundary as this is necessary to protect the living conditions of the occupants of properties on Selby Road.

17. I have also considered other conditions put forward by the Council. I do not consider it necessary to remove permitted development rights in respect of the insertion of windows in the side elevation because any additional windows at first floor level on this elevation would need to be obscure glazed and non-opening below 1.7 metres in any event¹, and it is unlikely that any additional windows in the rear elevation which would be harmful to the living conditions of the occupiers of neighbouring properties could be inserted into this elevation. Furthermore, I do not consider it necessary either to remove permitted development rights in relation to the retention of the driveway of the property, as this does not pass the tests of reasonableness in the context of this proposal.

Conclusion

18. For the reasons set out above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

Katherine Robbie

INSPECTOR

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 Part 1 Class A.