



Appeal Decision

Site visit made on 1 February 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th March 2022

Appeal Ref: APP/N4720/W/21/3284074

3 Lay Garth Square, Rothwell, Leeds LS26 0TU

- 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 Geoff Hayes against Leeds City Council.
 - The application Ref 21/05489/FU/E is dated 21 June 2021.
 - The development proposed was originally described as 'Proposed extensions and alterations to form enlarged private dwelling including single story garage.'
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Decision

1. The appeal is dismissed and planning permission for proposed extensions and alterations to form enlarged private dwelling including single story garage is refused.

Preliminary Matters

2. The appeal is made against the failure of the Council to issue a decision on the application within the prescribed period. The Council's putative reasons for refusal are set out within its Statement of Case, and I have considered the appeal on this basis.
3. On site, I saw that some works had been undertaken to the side of the garage. However, for the avoidance of doubt, I have considered the appeal on the basis of the proposed plans.

Main Issues

4. The main issues in this case are:
 - i) the effect of the proposal on the living conditions of neighbouring occupants of 8 and 9 Lay Garth Close, with respect to outlook, light, sense of enclosure and privacy, and;
 - ii) the effect of the proposal on the character and appearance of the area, including the setting of the Rothwell Conservation Area.

Reasons

Living Conditions

5. The appeal dwelling occupies a site at the end of a short cul-de-sac within a wider estate of similar housing and layout. The side elevation of the appeal dwelling faces towards the rear elevations and gardens of 8 and 9 Lay Garth Close. These neighbouring dwellings lie roughly to the north-west of the appeal

site at close range, having shallow gardens that stand at a slightly lower ground level than the appeal site.

6. The appeal dwelling has a deep front extension along the boundary which presents a long, single storey side elevation to the neighbouring properties, the rear part of which has a shallow, offset gable. The main, two storey part of the dwelling stands recessed directly behind this gable in views from No 8, and is seen obliquely from No 9. Viewed from the neighbouring gardens, the massing of the appeal dwelling forms an immediate and obvious backdrop, but its impact, particularly in terms of overbearing, is mitigated by the low eaves height and shallow roof pitch of the front projection. This maintains a relatively open aspect for Nos 8 and 9 between the two storey elements of the appeal building and that of 2 Lay Garth Square.
7. The proposed first floor addition would extend some 6.8 metres in depth over the existing single storey projection. This would be combined with realignment of the main side wall some 300mm closer to the side boundary than at present, and the removal of the lower side facing gable and its replacement with an extended lean-to roof over the single storey section along the boundary.
8. The removal of the gable would provide a minor reduction in massing next to the site boundary; however, this would be replaced by the first floor extension which, despite being recessed behind the boundary by some 4.85 metres, would form a highly visible and imposing structure when viewed from the neighbouring property. It would result in a two storey scale spanning across the full width of the rear boundary of No 8. This substantial massing would dominate the view from within No 8 and its garden and have a significant overbearing effect. It would result in a loss of view of the sky over the existing single storey section, severely reducing the sense of spaciousness and instead creating a harmful sense of enclosure for neighbouring occupants.
9. Moreover, the position of the first floor extension to the south of No 8 means that it would result in a loss of sunlight and more shadowing of the neighbouring garden and ground floor windows and conservatory at times during the day, particularly in winter when the angle of the sun is lower.
10. The massing of the extension would not stand directly opposite No 9, and would not have the same degree of impact as on No 8, but it would still be viewed at close range and would have an adverse effect in terms of narrowing the outlook from the rear of the dwelling and its garden, and in adding to the sense of enclosure.
11. I note that the Council's Householder Design Guide (April 2012) (the HDG) advocates a minimum distance of 12 metres between ground floor main windows to living and dining rooms and neighbouring side elevations. Based on extrapolations from the submitted plans, the Council indicates that the proposed first floor level may achieve a 12 metre separation from the main wall of No 8. However, this does not factor in the large conservatory to the rear of No 8. If this is factored in, the proposal would fall well short of the Council's guidance. Even if a 12 metre distance is otherwise met, I find that the particular physical relationship between the proposed extension and the neighbouring dwellings is such that it would still result in a significant loss of outlook and light, and greater sense of enclosure, to Nos 8 and 9, both in terms of their windows and gardens.

12. In considering this issue, I also note that in a 2018 appeal decision¹, the Inspector found there would have been a harmful effect on neighbours' outlook, sunlight and privacy from a proposed side extension that would not have projected forward of the main front elevation. Whilst the current proposal would set the first floor back further from the site boundary, its significant additional length means its overall effect in terms of loss of outlook and light would be similar to, if not greater, than the earlier scheme, and the previous Inspector's concerns would not be overcome.
13. The Council further argues that the proposed insertion of several slender windows in the side elevation and rooflights to the lean-to roof would create a perception of overlooking. I saw that the close arrangement of dwellings in the estate, and the presence of windows in some side elevations, means that there already exists a degree of mutual overlooking between dwellings and their gardens. Here, the boundary fence would largely conceal the windows, whilst the proposed rooflights would be orientated skywards and would not enable views over the neighbouring dwellings. Consequently, I am not persuaded that the proposal would lead to a perception of overlooking that would harm the living conditions of neighbouring occupants.
14. However, for the reasons set out, I conclude that the proposal would cause significant harm to the living conditions of occupants of 8 and 9 Lay Garth Close in terms of loss of outlook and sunlight, overbearing effect, increased sense of enclosure and overshadowing. Therefore, there would be conflict with Policy P10 of the Core Strategy (November 2014, Amendments September 2019) (the CS) and Saved Policies GP5 and BD5 of the Unitary Development Plan Review (2006) (the UDP). Together, these policies seek high quality development that considers and protects residential amenity.
15. There would also be conflict with Policy HDG2 of the HDG which states that proposals which harm the existing residential amenity of neighbours through excessive overshadowing, overdominance or overlooking will be strongly resisted.

Character and Appearance

16. The dwellings in the wider estate are not identical, but they share a characteristic overall design, being based upon a simple, rectangular footprint and faced in brick to the ground floor and timber or other cladding to the first floor, which slightly overhangs the ground floor on a number of dwellings. Extensions I saw have for the most part maintained the simplicity of the design and matched the parent dwelling in terms of materials and roof pitch.
17. The appeal dwelling differs from its immediate neighbours in having the deep front extension, but otherwise is characteristic of the wider estate in its form, design and materials. In particular, the front elevation remains fully legible despite the front extension, as does the fenestration pattern which is consistent with the wider estate.
18. The proposed extensions to the front/side would be substantial additions that would significantly alter the scale and overall form of the dwelling. The first floor element would be embedded awkwardly into one side of the roof slope of the existing ground floor extension. This rather crude offsetting would be

¹ Appeal Ref: APP/N4720/D/18/3194187, dismissed 15 March 2018

evident in the roof ridge of the ground floor element passing behind the first floor extension when viewed from Lay Garth Square, but would be most obvious in the cantilevering of the extension out over the inner wall of the ground floor below. As a result, the extension would appear as an unbalanced addition to the dwelling.

19. Moreover, the extension would attach to the front elevation in a jarring manner, with the main front wall altered at first floor level to meet it on a diagonal line, whilst the windows would be altered from the characteristic horizontal emphasis seen across the estate to narrow vertical panels with no glazing pattern. The most conspicuous element would be the large projecting oriel window to the side of the first floor extension. This would bear no relation in form or proportion to other windows and would awkwardly extend above the main eaves line of the dwelling. This would result in a top heavy and overbearing massing to the extension and the front of the dwelling as a whole.
20. In this respect, the cantilevered element would be much greater in depth and visual prominence than the subtle first floor overhangs which are characteristic of other dwellings in the estate. Similarly, I do not agree with the appellant that the proposed oriel window, in a conspicuous position at first floor level, is comparable to the modest ground floor bay windows which sit underneath the shallow overhangs on other dwellings.
21. In addition, the extension of the garage at ground floor level would result in an overall forward projection from the original front wall of some 13.5 metres. I understand this extension falls on land previously forming part of 2 Lay Garth Square but subsequently acquired by the appellant. This has altered the spatial relationship between the two properties. The resulting extension would be significant in length, spanning the full width of the site and meeting the new side boundary of No 2, and dominant in appearance, as evidenced by its triple garage door where other dwellings have double doors. As a result, it would not appear subservient in scale to the main dwelling, but would add to the dominant scale of development proposed.
22. I have noted extensions to other properties in the estate referred to by the appellant, notably those over garages. However, it is clear from the supplied photographs, and seeing the dwellings on site, that they retain the characteristic rectangular footprint and architecture of the estate. The proposed front/side extensions, on the other hand, would introduce a dominant scale and massing, uncharacteristic shape and strident detailing that would stand out harmfully within the surroundings.
23. The rear ground floor extension would project 5 metres from the existing rear wall with a rectangular flat roof, but having an angled rear facing wall beneath. The first floor would be extended by some 2.7 metres. The rear garden is relatively modest in size, and the proposed rear addition would reduce the amount of external space considerably. In addition, the flat roof would extend from immediately below the first floor windows at a height of over 3.5 metres above ground level. As a result, the ground floor would be oversized and dominant relative to the cramped first floor level above, the windows of which would be squeezed between the flat roof and the main eaves above.
24. Moreover, the flat roof and the angled ground floor elevation would fail to reflect any existing design element of the dwelling. These features, in particular the expansive size and oversailing element of the roof, would jar with the more

modest scale and simple architecture of the original dwelling and its neighbours. The cumulative massing and conflicting design of the proposed extensions would be observable from neighbouring dwellings to the side and rear. Taken together, the extensions would result in the dwelling having excessive site coverage and appearing significantly larger in size than its neighbours. It would therefore fail to respect or integrate with its surroundings, but would instead form a conspicuous and incongruous development that would undermine the consistent scale and appearance of the estate.

25. To the rear of the site, the dwellings in Cross Street fall within the Rothwell Conservation Area, the significance of which derives from the historic vernacular townscape that encompasses the commercial centre of the settlement and surrounding historic suburbs. The modest terraced dwellings on Cross Street form part of this historic townscape, and are of distinctly different character to the appeal site and the wider Lay Garth estate. The massing and contemporary design of the proposed rear extensions would be visible from the nearest dwellings on Cross Street, but they would be viewed as part of the wider suburban estate in much the same manner as at present. Consequently, I find that the proposal would not harm the setting of the adjacent conservation area, the character and appearance of which would be preserved.
26. In reaching a view on this main issue, I note that the Inspector in 2018 did not make a finding of harm with respect to the character and appearance of the area. However, that scheme was materially different to that before me, with significantly less overall massing of extensions proposed. As such, whilst I have had regard to the previous Inspector's considerations, including with respect to the conservation area, I have considered the proposal on its own merits.
27. Taking these considerations together, the proposed extensions would be inconsistent with the prevailing pattern of development within the estate. Both to the front and rear, they would be physically and visually dominant and would obscure and overwhelm the original scale and form of the dwelling. The proposed fenestration would further diverge the design from that of its neighbours. The result would be an awkward, incoherent design that would fail to reflect or respect its surroundings.
28. Therefore, I conclude that the proposal would significantly harm the character and appearance of the dwelling and the wider area. This would conflict with CS Policy P10, Saved UDP Policy GP5 and Policy HDG1 of the HDG, which together require new development to deliver high quality inclusive design that respects and enhances existing streets, spaces and buildings, having regard to factors including size, scale, detailed design and layout.

Other Matters

29. I have had regard to the other matters referred to by the Council, including highway safety, parking and protected species. No harm is alleged in these respects and the evidence before me does not lead me to different conclusions. However, the absence of harm means these are neutral factors weighing neither for nor against the proposal.

Conclusion

30. For the reasons set out, the proposal would conflict with the development plan, taken as a whole. The proposal would provide extended living space for the

present occupants, but this would be a limited private benefit, rather than a public one. Any economic benefits for the local construction trade in implementing the development would also be limited in scale. These considerations, taken together, would not justify making a decision other than in accordance with the development plan.

31. Therefore, I conclude that the appeal should be dismissed and planning permission refused.

K Savage

INSPECTOR