



Appeal Decision

Site visit made on 8 December 2021

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th March 2022

Appeal Ref: APP/W2465/D/21/3281998
20 Nursery Road, Leicester LE5 2HP

- 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 Ibrahim Mota against the decision of Leicester City Council.
 - The application Ref 20210916, dated 13 April 2021, was refused by notice dated 9 June 2021.
 - The development proposed is Construction of a single storey extension at rear; first floor extension of house (Class C3); alterations.
-

Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues in this appeal to be the impact of the proposed development on the character and appearance of the local area and on the amenity of the occupiers of 20A Nursery Road (East) with particular regard to daylight and outlook.

Reasons

Character and appearance

3. The appeal property is a single storey dwelling fronting Nursery Road, on a corner plot at the junction with Nursery Road (East). Nursery Road is situated on a gentle slope moving downhill from north to south. The appeal site is located adjacent to a short terrace of dwellings to the north (beyond the Nursery Road (East) access) and a single storey dwelling at no. 24 to the south.
4. The area is one of mixed character with a variety of dwellings, and I was able to see on my site visit both two storey and single storey dwellings making use of different materials and being of varying appearance. The appeal dwelling is currently a single storey dwelling with a clay tile roof. The proposed development would introduce an additional storey to the existing dwelling with the gable end facing the road, featuring timber cladding and render.
5. Whilst the proposal would represent an increase in the height of the dwelling, this would remain below the ridge height of the neighbouring properties to the north due to the change in levels. I accept that many of the dwellings feature hipped roofs facing the road, however I was able to see additions to existing

dwelling along the street including gable features, as well as the neighbouring property at no.24 with the gable facing the street. Given the wide variety of dwellings in the street and local area, I do not find that the provision of a gable front together with the proposed timber cladding would be detrimental to the character and appearance of the local area. I note that the council has concerns about the quality of material specifications, however this is not sufficient reason to persuade me that the proposal would cause harm.

6. Whilst I accept that the proposed extension represents a sizeable increase to the existing dwelling, resulting in a two storey dwelling, I do not find that this is out of keeping with the character of the local area and there are numerous two storey dwellings and as such there would be no harm to the character and appearance of the local area.
7. Therefore, I find that the proposal would accord with the requirements of policy CS03 of the Core Strategy¹ which seeks high quality and well-designed developments.

Living Conditions

8. The appeal site shares its rear boundary with no. 20A Nursery Road (East) with a close-board fence serving as the rear boundary treatment, as well as that neighbour's garage. I was able to see at my site visit that a dining room window and glazed door faced the appeal site.
9. The appeal proposals would result in glazed doors serving two bedrooms, with a Juliette balcony for each room. At ground floor there would be two sets of glazed doors serving a ground floor bedroom and the kitchen/dining room. I note that the appellant states that the orientation of the building and positioning of windows would prevent any overlooking and no loss of amenity to the neighbouring property, however my site visit and the appeal documents demonstrated that the proposed glazed doors would look directly to the windows of no. 20A which face the appeal site. Due to the direct relationship between the two properties, and the increase in height of the appeal dwelling, the development would result in unacceptable overlooking to that neighbour.
10. The parties state that the appeal site is located between 11-18m from no. 20A. Notwithstanding the parties' disagreement over distances, I have had regard to the Council's Residential Amenity SPD² which states that where a window to a principal room (including dining room, bedroom, kitchen) faces a similar window of a neighbouring property, the distance must not be less than 21 metres. This goes on to say that where direct overlooking is avoided by the positioning of windows then the distance can be a minimum of 18m. Given the direct relationship between the appeal site and no. 20A, I consider that the distances of 11-18m would be contrary to the guidance within the SPD and would result in an overbearing effect on outlook and overlooking from the dining room at no. 20A.
11. The appellant suggests that appropriate conditions to prevent access to the flat roof of the single storey element would help to ensure privacy to the neighbours, however this would not overcome the harm as a result of the overlooking from the first floor glazed doors and the proximity of the development to no. 20A.

¹ Leicester City Council Core Strategy (July 2014)

² Leicester City Council – SPD: Residential Amenity (February 2008)

12. I therefore conclude that the proposed extension would cause significant harm to the living conditions of occupants of 20A Nursery Road (East) with regard to overlooking. It would be contrary to Policy PS10 of the Local Plan³ which expects good design, including (amongst other things) that development protects the privacy of neighbouring occupants and the Council's SPD which sets out design guidance to protect living conditions of neighbouring occupiers. This would also be contrary to the National Planning Policy Framework which seeks to secure good standards of amenity and quality of life.

Other Matters

13. The appellant also states that the single storey element of the development can be constructed making use of permitted development rights. Even so, I have seen nothing to suggest they would genuinely pursue this option if the appeal failed or that such a scheme would be similar to, or worse than, what is currently proposed. As such, it is a matter of negligible weight.
14. Reference has been made to reducing the windows sizes to the first floor, though this is not reflected in the appeal documents before me. I have no evidence to suggest that this would decrease the impacts of overlooking identified above and I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

15. Overall, while I find that the proposal would result in no significant harm to the character and appearance of the appeal dwelling or the local area, this would not outweigh the harm I have identified to the living conditions of neighbouring occupants.
16. For the reasons given, I conclude the appeal should be dismissed.

Rebecca Thomas

INSPECTOR

³ City of Leicester Local Plan (January 2006)