



Appeal Decision

Site visit made on 8 February 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2022

Appeal Ref: APP/N4720/D/22/3290390
65 Birk Lane, Morley, Leeds LS27 0ST

- 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 Michael Bailey against the decision of Leeds City Council.
 - The application Ref 21/07416/FU, dated 3 September 2021, was refused by notice dated 3 November 2021.
 - The development proposed is a single storey side and rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey side and rear extension at 65 Birk Lane, Morley, Leeds LS27 0ST in accordance with the terms of the application, Ref 21/07416/FU, dated 3 September 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 2021-104 Drawing No SLP – Site Location Plan (May 2021)
 - 2021-104 Drawing No 300 – Site Plans (May 2021)
 - 2021-104 Drawing No 100 – Existing Ground Floor Plan (May 2021)
 - 2021-104 Drawing No 101 – Existing Elevations (May 2021)
 - 2021-104 Drawing No 200 – Proposed Ground Floor Plan (May 2021)
 - 2021-104 Drawing No 202 – Proposed Elevations (May 2021)
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the effect of the proposed extension on living conditions for the occupiers of the neighbouring property at No 63 Birk Lane, with particular regard to outlook, overshadowing, and whether or not it would be overbearing.

Reasons

3. The appeal property is a semi-detached house, with an open front garden and side driveway, and a single-storey rear extension. It is in an area of residential properties of similar character, design and form.
4. The proposed development is the erection of a wraparound single-storey side and rear extension, which would incorporate the existing rear extension. The extension would be around 2.5m wide and would have a total depth of around 7.7m, of which 3.5m would project beyond the existing main rear elevation of the appeal property. It would be built up to the common boundary with No 63, the neighbouring property approximately to the north of No 65, and would project around 3.7m beyond the rear elevation of No 63.
5. Policy HDG2¹ of the Council's 2012 Householder Design Guide Supplementary Planning Document ("the SPD") seeks to ensure that development proposals protect the amenity of neighbours. In respect of extensions, it seeks to ensure that they are not over-dominant, and that neighbouring windows and gardens are not adversely affected in terms of daylight, sunlight or outlook. The SPD states that "as a general rule of thumb single-storey extensions can project 3.0m on a common boundary". In this case, the projection along the common boundary would be slightly greater than the 3m described in the SPD. However, none of the evidence before me suggests that the proposed extension would breach any of the other guidance within the SPD (for example, in respect of separation distances or the "45 degree code"). Although the extension would present a gable wall to the common boundary with No 63, the pitch of the roof would be shallow, and the single-storey height of the extension mean that its overall impact in terms of overshadowing or being overbearing would be very limited.
6. The appellant has drawn my attention to another proposed extension at the appeal property, which was granted planning permission in September 2021² ("the 2021 permission"). This is also for a single-storey side and rear extension and, while I have not been provided with the full details of the scheme, on the basis of the information before me it appears to be essentially the same as the current proposal. It too would be around 2.5m wide at the side, and would project around 3.5m beyond the rear elevation of the appeal property. However, there is one key difference: at the northernmost corner of the extension, next to the boundary with No 63, the proposed floor plan of the 2021 permission shows a small "cutaway" area, measuring around 0.5m by 0.4m. The appellant describes the extension allowed by the 2021 permission as having been "trimmed" to ensure that it would not extend for more than 3m along the shared boundary, in line with the SPD's guidance.
7. The 2021 permission is a legitimate fallback position for the appellant, and while the small cutaway area means that it would be a less substantial development than the appeal scheme, in considering the effects of the current proposal on living conditions for the occupiers of No 63 I have taken into account the fallback position. While I note the Council's concerns about the height and massing of the proposed extension on the common border, there would be very little practical difference between the two schemes when seen

¹ Notwithstanding the terminology, the SPD provides guidance and interpretation in respect of the development plan, and while a material consideration it does not in itself set out development plan policies.

² LPA Ref: 21/05582/FU

from No 63. I have not been provided with the Council's officer report for the 2021 permission, so I do not have access to its thinking in respect of the cutaway corner in that proposal. However, the relatively shallow 0.4m by which it would step back from the boundary with No 63 means that, while it may ensure that the 2021 permission complies with the letter of the SPD requirements, its practical effects would be limited. In my view, the extension before me would not have a significantly greater impact on living conditions for No 63 than that allowed by the 2021 permission.

8. I recognise that there will be many situations where marginal increases or incremental changes to an approved development would quickly move it from being acceptable to unacceptable, and each situation must therefore be assessed on its individual merits. In this case, based on all the evidence before me, and my observations on site, I consider that the additional impact of the proposed extension when compared to the 2021 permission would be negligible in terms of overshadowing or loss of outlook from the neighbouring rear garden; indeed, even assessed on its own right without reference to the earlier permission I find that it would be acceptable.
9. I conclude that the proposed development would not cause unacceptable harm to living conditions for occupiers of No 63. Notwithstanding the limited conflict with elements of guidance in the SPD, the proposal would comply with Saved Policy GP5 of the 2006 Leeds Unitary Development Plan, and with Policy P10 of the 2014 Leeds Core Strategy (as amended by the Core Strategy Selective Review 2019); among other things, these policies seek to protect residential amenity. The Council's decision notice made a general reference to conflict with the National Planning Policy Framework ("the Framework"), although it did not refer to specific paragraphs. For the reasons set out above I also find no conflict with the Framework, in particular the provisions of Paragraph 130 which seek to create places with a high standard of amenity for existing and future users.

Other Matter

10. Morley Town Council objected to the scheme on the grounds of the loss of an off-street parking space. I note Leeds City Council's comments that the site plan showed that there would still be on-site space for two vehicles and that, as the existing hardstanding could in any event be removed using permitted development rights, the scheme was acceptable in this respect. None of the evidence before me leads me to a different conclusion on this matter.

Conclusion

11. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

M Cryan

Inspector