



Appeal Decision

Site visit made on 25 April 2022

by C Megginson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2022

Appeal Ref: APP/L2440/D/21/3289326

41 High Leys Drive, Oadby LE2 5TL

- 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 Olivier De Condappa against the decision of Oadby and Wigston Borough Council.
 - The application Ref 21/00116/FUL, dated 8 March 2021, was refused by notice dated 24 September 2021.
 - The development proposed is a double storey side extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form description describes a double storey side extension. From the evidence before me, the proposed development also includes single storey front and side extensions and canopy to the front. I have dealt with the appeal on this basis.
3. I note that during the application stage, a number of alternative development options were put forward, however, it is clear that the application was determined based on the original scheme submitted. With the principles of the Wheatcroft case (Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Another 1982) in mind, it would be inappropriate to consider the alternative development options put forward as part of the appeal process as none of these options have been subject to consultation. I also note that an accurate set of drawings were submitted in respect of the original proposal to address the issue of the canopy overhanging the public footpath. I have therefore dealt with the appeal on the basis of these plans.

Main Issue

4. The effect of the proposed development on the character and appearance of the host property, the pair of semi-detached properties and the area.

Reasons

5. The appeal property is a two-storey semi-detached dwelling on a corner plot that tapers to the front. Whilst the appeal property sits lower than the adjacent roads and footpaths and is surrounded by a low brick wall and mature vegetation which provides some screening, it remains clearly visible from the surrounding area and sits in a prominent corner position.

6. There are a mix of property types in the area, and some have been altered through extensions. General form is simple, with buildings arranged conventionally, set back from and facing the road with parking to the front and sides. Plot sizes vary, but buildings are arranged such that gaps between them and their boundaries contribute positively to a sense of spaciousness in the street scene.
7. Whilst the design of the appeal proposal would match the design of the existing property and use matching materials, the width of the proposed two storey side extension, along with the additional proposed single storey element, would visually dominate the existing, noticeably more modest, host building. In addition, the lack of a set back from the front or set down from the existing ridge would fail to appear as a subordinate addition and would unbalance the pair of semi-detached properties, of which it forms a part, to an unacceptable degree. Furthermore, and due to the space the extensions would occupy, built form would all but fill the side of the plot, appearing overcrowded and eroding the spaciousness of the street scene. Given the scale of the extension proposed, it would likely be necessary to remove some of the mature vegetation that currently acts as screening to the site, thus increasing the visibility of the scheme from the surrounding area.
8. The appeal scheme would therefore result in an incongruous and dominant form of development that would unacceptably harm the character and appearance of the host property, the pair of semi-detached properties and the area. As such, it would conflict with Policies 6, 11 and 44 of the Borough of Oadby and Wigston Local Plan (2019) which require new development to respect the character and appearance of the main dwelling and the locality. It would also be contrary to the guidance in the Oadby and Wigston Borough Council Residential Development Supplementary Planning Document (2019), which states, in summary, that extensions should be visually subordinate to the existing dwelling to be extended and that 'side extensions to existing residential dwellings situated on corner plots effectively become front extensions and ultimately can have a major impact upon the appearance of the street scene'.
9. The proposal would also be contrary to the National Planning Policy Framework (the Framework), which states in paragraph 130 that planning decisions should ensure that developments will add to the overall quality of the area and are sympathetic to local character.

Other Matters

10. My attention has been drawn to other extensions in the area, including a previously approved two-storey extension on the appeal property, and other examples where one property in a pair of semi-detached properties has been extended. I have limited evidence on these cases. The circumstances in each proposal are likely to be different, and in any event the fact that apparently similar proposals may have been permitted is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
11. The appellant has outlined that the appeal proposal is necessary for accessibility and accommodation to support a family member with complex needs. They have also highlighted the significant stress and anxiety caused by the rejection of the plans. Whilst I have given the appellant's personal

circumstances careful consideration, I am mindful of the advice contained in Planning Practice Guidance¹ that in general planning is concerned with land use in the public interest. For this reason, I therefore find that this factor is not sufficient to outweigh the harm that would be caused contrary to the development plan, the SPD and the Framework.

12. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act.
13. I appreciate the appellants aim to provide an inclusive house within the community that supports occupants with complex needs and limited mobility, whilst also remaining affordable. I also note the difference in cost between the market prices of semi-detached and detached properties. These being the case, it is not sufficiently clear to me that the appeal proposal is the only way of achieving the additional space required and the evidence before me suggests that there a number of reasonable alternatives, in discussion with the council, that could achieve the aims set out above. Having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, the adverse impacts of dismissing the scheme on those with protected characteristics would be proportionate, having regard to the existence of reasonable alternatives.
14. The improved energy efficiency, noise insulation and biodiversity enhancements the proposals may bring are positive aspects of the scheme albeit insufficient on their own to make the proposed development acceptable. In light of the clear harm the design and scale of the extensions would create. This harm would lead to conflict with the development plan. The weight I ascribe to both matters being substantial.

Conclusion

15. The appeal scheme conflicts with the development plan. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

C. Megginson

INSPECTOR

¹ Paragraph 008 Reference ID 21b-008-20140306 – ‘What is a material planning consideration?’