



Appeal Decision

Site visit made on 27 June 2022

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2022

Appeal Ref: APP/N4720/D/22/3296800

19 Amberton Grove, Gipton, Leeds LS8 3JL

- 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 S Ali against the decision of Leeds City Council.
 - The application Ref 21/09587/FU, dated 17 November 2011, was refused by notice dated 28 January 2022.
 - The development is described as 'retrospective application for outbuilding'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A retrospective application for a detached outbuilding to the rear of the appeal building was refused by the Council in November 2020. An application for a Certificate of Proposed Lawful Development (CPLD) for an outbuilding to the rear was approved in April 2020. The plans accompanying the CPLD application show a rectangular outbuilding measuring 10.6m in depth and 4m in width, a flat roof measuring 2.5m in height and the building set away from neighbouring boundaries. The plans indicate the use of the building as a gym and store. The outbuilding which was constructed does not comply with the CLP and so the planning application subject to this appeal was submitted.
3. The plans accompanying the application subject to the appeal show the building to be used as a gym and a store together with a bathroom. However, I noted on my site visit that the building contains a living room, bedroom, bathroom, a small kitchen and a store. For the purposes of this appeal, and for the avoidance of doubt, I am basing my decision upon the formal details shown on the drawings submitted.

Main Issues

4. The main issues in this case are:
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on the living conditions of existing occupiers at 21 Amberton Grove and numbers 14 and 16 Amberton Street with specific reference to outlook.

Reasons

Character and appearance

5. The appeal property is a mid-terrace house situated within a row of similar houses. Properties are set back from the road behind small front gardens and have modest

gardens to the rear which back onto one another. Although modest in size, the gardens collectively contribute to the open character of the area. The host's rear garden is enclosed by an approximately 1.5m high block wall to both sides and palisade fencing along the rear boundary of the site. Immediately beyond the rear boundary is an area of grassed land which is open to public views from Amberton Street.

6. The L-shaped building is situated at the south end of the garden and occupies around one third of the rear garden area. Nevertheless, it is a substantial building with a footprint of around 56m², around 10.6m in length and it occupies almost the full width of the plot. The dual pitch roof is around 2.5m to eaves and 3.5m to the ridge and adds significant further bulk. Whilst the brick walls and tiled roof reflect those of the host property, the windows and doors add to the domestic appearance of the building. Due to its scale and design, the building appears as a separate dwelling as opposed to an outbuilding typically found in residential gardens. Consequently, the substantial building fails to appear subservient to the modest host property.
7. Furthermore, the building is prominent in views from the windows and gardens of neighbouring properties and is highly visible from Amberton Street due to the area of open space to the rear. Whilst I noted the presence of outbuildings in the gardens of neighbouring properties and garages to the side of dwellings, these are modest in size and have the appearance of ancillary buildings. As a result, they clearly appear subsidiary to the host property. Overall, I consider that the building is an incongruous addition which is at odds with the predominant pattern of development, and which detracts from the openness of the area.
8. For the reasons stated, the development harms the character and appearance of the surrounding area. It is, therefore, contrary to Policy P10 of the Council's Core Strategy (CS) (amended 2019), saved Policies BD6 and GP5 of the Unitary Development Plan Review (UDP) (2006) and Policy HDG1 of the Council's Householder Design Guide (HDG) (2012) which collectively seek to ensure that new development, alterations and extensions are of a good design which reflects the scale, form, detailing and materials of the original building and the local distinctiveness of the area.

Living conditions

9. Number 21 Amberton Grove (No. 21) lies adjacent to the appeal property and has a small triangular shaped garden. The appeal building is only close to a small part of the shared boundary with No. 21; however, due to the scale of the building and the small size of the garden it is, nevertheless, visually highly prominent. Occupants of No. 21 would have previously had an outlook over the boundary wall to the trees in the gardens beyond. However, occupiers now have an outlook of the gable end and side wall of the appeal building in close proximity to the garden to the detriment of their enjoyment of the garden.
10. Number 16 Amberton Street (No.16) also has a triangular shaped garden which tapers towards the rear garden of the appeal property. Occupiers would have previously had an outlook from their gardens and ground floor rear windows of the trees in the rear gardens of the estate over the boundary fence. However, occupiers now face out onto the imposing blank rendered wall of the appeal building and substantial roof in close proximity to their garden and rear windows. The imposing nature of the building is exacerbated by the appeal building being situated on higher ground to No. 16.

11. The presence of the building is most keenly felt by occupiers of number 14 Amberton Street (No.14) due to the appeal building occupying the entire length of the shared boundary. Occupiers would have previously had a view over the boundary of the rear gardens and trees beyond. However, occupiers now look out onto an extensive section of the blank elevation of the appeal building and substantial roof in close proximity to their rear, ground floor windows. The effect of the building is exacerbated by it being situated at a higher level than the rear garden of No. 14.
12. The appellant suggests that the existing shed and garage to the rear of No.14 'breaks up' the impact of the appeal building. However, I noticed on my site visit that the existing shed and garage are modest in size and lower in height than the appeal building. In addition, the garage lies to the side of the garden. Both buildings are clearly ancillary to the host property and are reflective of buildings typically found in the curtilage of residential gardens. Due to their small size and location, they do not affect the outlook from the rear windows and garden of No. 14. In contrast the appeal building is much larger and set at a higher level.
13. In conclusion, the appeal building has a harmful effect on the living conditions of existing occupiers at No. 21 Amberton Grove, and Nos. 14 and 16 Amberton Street, with specific reference to outlook. It is, therefore, contrary to Policy P10 of the CS, Policies BD5 and GP5 of the UDP and Policy HDG2 of the HDG which collectively, amongst other things, seek to protect the amenity of neighbouring occupiers.

Other matters

14. Attention is drawn to the appellant's permitted development rights and the CPLD as fallback positions for the appeal development. I consider that there is a reasonable prospect of those options being implemented and so they are significant material considerations to be taken into account in my Decision. Nonetheless, a building which could be erected under permitted development rights would be smaller than the appeal building. Furthermore, the footprint of the building granted permission under the CPLD is smaller and is set way from the eastern boundary. Whilst the western elevation would be the same length along boundary, the building would be significantly lower, having a flat roof at only 2.5m compared to the appeal building which is 3.5m. The fallback positions are, therefore, less harmful to the character and appearance of the area and to the living conditions of occupiers of neighbouring properties. Consequently, they do not justify the harm which has arisen from the appeal building.

Conclusion

15. Whilst the appeal building may have some private benefits for the appellant in terms of additional living space, the significant harm which I have identified to the character and appearance of the area and to the living conditions of existing occupiers would outweigh this benefit. There are no material considerations which indicate a decision other than in accordance with the development plan.
16. For the reason stated and taking all other considerations into account, the appeal should be dismissed.

Caroline Mulloy

Inspector