



Appeal Decision

Site visit made on 4 January 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2023

Appeal Ref: APP/W2465/W/22/3306000

1 Oliver Road, Leicester LE4 7GQ

- 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 Mayur Pau against the decision of Leicester City Council.
 - The application Ref 20220021, dated 10 January 2022, was refused by notice dated 20 June 2022.
 - The development proposed is change of use of existing 2 bed house to three flats (2 X 1 bed and 1 X 3 bed duplex) (Class C3); two storey side and rear extension; single storey rear extension; rear dormer; rooflight at the front and alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the header is taken from the application form. The appeal form states the description has not changed but a slightly different version is provided. I have used the original description for the basis of my assessment as there is no evidence that any revision has been agreed.
3. The appeal drawings show an existing single storey living room extension to the rear of the property. I saw that this has been largely constructed although it has not yet been completed. The Council suggests this addition is unauthorised as it has not been constructed in accordance with conditions attached to permitted development rights. However, it is not my role in the consideration of an appeal under section 78 of the Town and Country Planning Act 1990 to determine whether the construction of the extension is lawful. It is clear that the existing rear extension does not form part of the appeal development when having regard to the application submissions and plans that show the existing and proposed building. My assessment is made on this basis.
4. The appellant has submitted an amended "proposed ground floor and first floor plan"¹ that was not before the Council when it made its decision on the planning application. This plan shows changes to the position of bin and cycle storage facilities and sub-division of the amenity space to serve the appeal development. The revisions do not fundamentally change the nature of the development and the Council has had an opportunity to comment on the amendments through the appeal process. Therefore, I am satisfied no injustice would be caused by taking the amended drawing into account.

¹ Drawing numbered PL1 A200 rev D

Main Issues

5. The main issues are (i) the effect of the development on the character and appearance of the area, (ii) whether it would provide satisfactory living conditions for future occupiers having regard to privacy, and (iii) its effect on the living conditions of occupiers of 3 Oliver Road (No 3) in terms of light and outlook.

Reasons

Character and appearance

6. The appeal property is an end of terrace, 2 storey high house that faces Oliver Road. The site lies on the corner with Gipsy Lane. The exposed flank elevation, the upper part of the rear of the appeal property and the rest of the terrace is seen over a boundary fence from Gipsy Lane. A nearby railway bridge crosses the road.
7. Under the appeal scheme, a 2 storey extension would be constructed onto the exposed side of the house. This would project to the rear of the property before falling down in height to a single storey element attached to the side of the existing rear extension. Also, there would be an enlargement at first floor level above the rear extension as well as a flat roof dormer addition across most of the rear roof slope.
8. From Oliver Road, only the front of the side extension would be visible. However, from Gipsy Lane there would be views of most of the proposed additions, despite the screening effects of adjoining dwellings and the railway bridge. As such, the development would have a noticeable effect on the street scene.
9. When seen from Oliver Road, the side extension would be read as a fairly modest addition, set back from the front of the existing house and with a lower ridge height. However, from Gipsy Lane the full depth of the side extension would be readily apparent. The significant overall size of the proposed additions would be seen when approaching the site from the railway bridge. From this direction the extensions would appear to wrap around the side and rear of the property so that very little of the original house would be visible. In these regards, the development would appear disproportionate. As such, it would fail to sympathetically reflect the appearance of the appeal property and the other houses in the terrace.
10. Furthermore, the proposed enlargements would bring the 2 storey element of the appeal property closer to the side boundary with only a small gap to the Gipsy Lane pavement. On the appeal property side of the road, Gipsy Lane properties tend to be set back off the pavement, so the buildings do not appear overtly dominant within the street scene. Given their forward position and overall size, the proposed side and rear extensions would appear unusually prominent in views along Gipsy Lane. In these regards, the proposal would not respond positively to its setting.
11. An industrial building further along Gipsy Lane adjoins the pavement but this is on the other side of the road and is clearly a non-residential building. As such, it does not set an appropriate precedent to be followed in the design of a house extension. Also, the sides of the railway bridge arches come closer to the carriageway than properties on this stretch of Gipsy Lane. However, the bridge

forms part of the transport infrastructure rather than a building on a roadside. As such, it does not justify the proposed extensions' position close to the pavement.

12. The appeal plans show no windows on the front and rear elevations of the proposed additions at first floor level. This would be out of character as the host property and others in the terrace all include significant areas of fenestration at first floor. However, as suggested by the appellant, this incongruity could be reasonably addressed through the imposition of a planning condition that requires the inclusion of appropriate windows. Subject to the imposition of such a condition, the development would be acceptable in these regards.
13. The Council contends the number of windows in the side elevation is excessive and haphazard. However, the glazing to wall ratio would be generally consistent with the existing front and rear elevations of the host property and other local houses. Almost all of the first floor windows would align with ground floor windows below. Also, the fenestration would provide features of interest and opportunities for surveillance onto the street. As such, the proposed side elevation would be an improvement in appearance compared to the existing flank wall. However, this enhancement would not address or fully offset the harm caused by reason of the scale and dominating effect of the development.
14. The appellant has referred to an extension scheme at 481 Saffron Road, a property on a similar corner plot. It is claimed this decision sets a precedent in support of the appeal proposal. However, the information provided indicates that the context to the Saffron Road site is different to that of 1 Oliver Road. Furthermore, the approved scheme allows only a single storey side extension, not a 2 storey addition as proposed. Due to these differences, it would not be inconsistent with this previous decision to find the appeal development would be unsympathetic to its surroundings.
15. In summary, the proposal when seen from Gipsy Lane would overwhelm the existing house by virtue of its scale and design. The resulting dwelling would be uncharacteristically large and prominent. As such, I conclude the proposal would not respect the character and appearance of the host property and the surrounding area. The benefit of extra fenestration on the side elevation would not overcome this incongruity. In these regards, the development would not accord with CS policy 3 of the Leicester Core Strategy 2014 (CS) and saved policy PS10 of the City of Leicester Local Plan 2006 (LP). Amongst other things, these policies look to ensure development is of a high quality that responds positively to its surroundings and the visual qualities of an area.

Living conditions of future occupiers

16. Concern is raised by the Council that the ground floor flats would have inadequate privacy due to views into the living room and bedroom windows from the garden area to serve the proposed development. The only bedroom to the front ground floor flat (flat 1) would be served by an existing bay window. A bin store area would be to the front of this window and the entrance door to the first floor flat (flat 3) would be just to its side. As such, users of the bin store and the entrance door would potentially have easy views into the bedroom.

17. However, such views would be from private land and mainly confined to residents and visitors to flat 3. Also, occupiers of flat 1 could secure privacy when needed through use of interior blinds or curtains. Furthermore, the provision of screens to the side of the entrance door and bin storage area would at least partially prevent easy views through the window into the interior of flat 1. It would be reasonable to secure such measures through the imposition of a planning condition.
18. The aforementioned amended plan shows the provision of a new hedge in the back garden. This would prevent residents of the front and upper flats from accessing the garden near to the windows of the rear ground floor flat (flat 2). Such a measure would help ensure there are no invasive views into the flat. The Council suggest that the resulting subdivision of the back garden would result in insufficient external space to serve flat 2. However, I am referred to no minimum external space standards and the plan indicates sufficient room for bike parking and bin storage.
19. For the above reasons, I conclude that the proposed development would provide satisfactory living conditions for occupiers having regard to privacy. In these respects, the development would accord with saved LP policies H07 and PS10. These look to ensure new flats provide satisfactory living conditions taking into account privacy. Reference is made in the relevant refusal reason to CS policy 3 but this contains no provisions relevant to this particular issue.

Effect on 3 Oliver Road

20. No 3 adjoins the appeal site with the side wall of the existing rear extension on the common boundary. The existing extension projects a significant distance beyond No 3's rear wall and due to its height and proximity it already blocks some daylight to No 3's rear ground floor windows. Also, the side wall of the extension causes a sense of enclosure by virtue of its height, depth and position on the boundary with No 3.
21. The proposed addition at first floor level would project out beyond the rear wall of the original appeal property and above the existing rear extension. However, it would be set away from the boundary of the site and so it would not breach a line taken at 45 degrees from No 3's nearest window. In these regards, the development would accord with the Council's Residential Amenity Supplementary Planning Document 2008. As such, I am satisfied the proposed extension to the rear would not lead to an unacceptable loss of light or detriment to outlook, even though it would be seen from No 3. The proposed dormer enlargement would not project beyond the rear elevation of the appeal property and so it too would avoid any detrimental effects.
22. For these reasons, I conclude the development would not unacceptably harm the living conditions of occupiers of No 3 in terms of light and outlook. In these regards, the proposal would accord with CS policy 3 and LP saved policy PS10. Amongst other things, these look to ensure developments take account of light and overshadowing to surrounding properties,.

Other Matters and Planning Balance

23. The proposal would be acceptable in terms of the second and third main issues and acceptability in these regards is a neutral factor in my assessment. However, the harm identified to the character and appearance of the area

means the proposal would be contrary to the development plan when read as a whole. It follows to consider whether other factors justify granting planning permission contrary to the development plan.

24. The Council is unable to demonstrate in excess of a 5 years' supply of housing land as required under the National Planning Policy Framework (the Framework). No information has been provided on the actual level of housing land that exists. Nonetheless, in such circumstances, paragraph 11 of the Framework indicates that relevant development plan policies should be deemed as out of date. Paragraph 11 goes on to require consideration of the benefits and the adverse impacts of the development against the policies of the Framework as a whole.
25. The development would add to the housing stock and would provide new residences in a urban location with good access to facilities and public transport. It would widen the mix of units in the local area. Also, the scheme would increase the number of units on the site and so it would represent a more effective use of land. There would be economic benefits in terms of construction employment and future residents would support local services. However, even if the shortfall in housing land supply is severe, these factors attract modest positive weight given that only a small number of additional units are proposed.
26. Against these benefits, I find the proposal would go against the fundamental aim of the Framework to create high quality and beautiful places. For the reasons given in respect of the first main issue, the development would not be visually attractive nor sympathetic to local character, even though it would lead to a minor benefit in terms of additional surveillance of the street. The Framework states that development that is not well designed should be refused and so I attribute significant weight to the identified harm.
27. Having regard to all material factors, I find that the adverse effects of the development would significantly and demonstrably outweigh its modest benefits. As such, the presumption in favour of sustainable development as laid out in paragraph 11 of the Framework does not apply. I find insufficient justification exists to grant planning permission contrary to development plan policies.

Conclusion

28. For the reasons given above, I conclude that the appeal should be dismissed.

Jonathan Edwards

INSPECTOR