



Appeal Decision

Site visit made on 27 January 2023

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st March 2023

Appeal Ref: APP/W2465/D/22/3313102

73 Ocean Road, Leicester LE5 2ER

- 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 Shamir Mustacaly against the decision of Leicestershire City Council.
 - The application Ref 20220718, dated 30 March 2022, was refused by notice dated 19 October 2022.
 - The development proposed is 'Retrospective application for the construction of single storey extensions to front and rear, alterations to roof and construction of residential annex at rear of house (Class C3)'.
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Decision

1. The appeal is allowed and planning permission is granted for a '*Retrospective application for the construction of single storey extensions to front and rear, alterations to roof and construction of residential annex at rear of house (Class C3)*' at 73 Ocean Road, Leicester LE5 2ER in accordance with the terms of the application, Ref 20220718, dated 30 March 2022.

Preliminary Matters

2. The description of development on the application form was "*A retrospective application for the erection of a single storey front extension with a flat roof canopy on columns, plus the demolition of an existing garage and its replacement with an annex building*". This description was amended following submission of the application and the new description better reflects the full extent of development proposed. As such, I have referred to the amended description for the purposes of this appeal.
3. The Council acknowledged in their officer's delegated report that the Appellant submitted two sets of proposed elevations plans with the planning application, with the same reference numbers. The first set of proposed plans were, presumably, for the scheme as originally proposed. The second set of proposed plans reflect the scheme 'as built'. The distinction between the two schemes is that in the 'as built' plans, the main hipped roof of the dwelling has a projecting flat-roof element, which extends beyond the plane of the front elevation to create a canopy porch on columns. It is clear from the original description of development on the application form and the fact that the 'as built' plans depict the retrospective scheme as it exists that it is those 'as built' plans which are subject of this appeal. In the interests of clarity and for the avoidance of doubt,

the relevant plans is Elevations Plan 3891/04 dated 12 July 2021 depicting the projecting canopy porch and columns.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the area and the living conditions of occupiers of neighbouring properties, specifically no.71 Ocean Road.

Reasons

Character of the area

5. The appeal site is a chalet-type bungalow fronting Ocean Road. The site is situated on at an off-set cross roads junction with Elmcroft Road which runs past the flank of the site and Gervas Road opposite. The character of the immediate surroundings is mixed; the area is predominantly residential however, immediately adjacent to the site is a busy vehicle repairs place; its entrance and forecourt extends almost the entire length of the other flank and rear garden of the appeal property. Opposite the appeal site on Gervas Road is a small parade of shops and a derelict public house building which is prominently located in the middle of a large site of hardstanding. On the other flank side of the property, across the road, is another chalet type bungalow, a two-storey semi-detached pair of dwellings and another chalet type bungalow with a massive roof extension.
6. Whilst there are several modest and low-profile bungalows in the vicinity, they predominantly front Elmcroft Road to the side and rear of the appeal site. The bungalows have similar overall scale and form, but many have been extended and have different roof forms. The location of the appeal site prevents it from contributing to any sense of regularity with the other bungalows and there is not a strong sense of uniformity in the appearance of bungalows in any case. As such, the appeal site has capacity for change without adversely affecting the character of the area.
7. The appeal scheme has slightly increased the pitch and mass of the hipped roof, however, this does not appear disproportionate to the scale of the extended host dwelling and it does not appear incongruous with the different scales of building and roof form surrounding the appeal site. The site is viewed within the streetscene in the context of the more massive industrial buildings behind it.
8. The flat canopy porch does project slightly closer to the pavement than the original dwelling did, however, it remains somewhat setback and it does not dominate the appearance of the dwelling or have an undue prominence in the streetscene. The bungalow has been extended to the front and rear, also the existing garage was replaced with a single-storey flat roof annex building. This has increased the density of development on the plot; which is visible in the streetscene due to the prominent corner location. However, the density of development and scale of extension does not appear out of character with the typical plot coverage in the area. Indeed, a sense of openness is maintained by the width of the road, grass verges and corner location.
9. For these reasons, the appeal scheme complies with policy CS03 of the Leicester Core Strategy (LCS), adopted in 2014 and the National Planning Policy Framework (the Framework). These policies seek, amongst other things,

high-quality development which contributes positively to an area's character and appearance.

Living conditions

10. No.71 Ocean Drive is situated parallel to the flank yet behind the rear garden of the appeal site. The dwelling is also a chalet type bungalow, set back behind the yard of the vehicle repairs place. The dwelling has no street frontage and limited forward outlook due to the rear boundary fence of the vehicle repairs place. The rear garden of the appeal site immediately abuts the side of the house.
11. The annex building is visible from the front living-room window of the dwelling, however, the low profile flat roof of the dwelling projects only marginally above the existing boundary fence and despite its proximity with the window, it does not overbear, overshadow or create any sense of overlooking within 71 Ocean Road. Moreover, it replaces a previous garage building.
12. As such, the appeal scheme complies with the Framework and saved policy PS10 of the City of Leicester Local Plan, adopted 2006. These policies seek, amongst other things, to maintain the living conditions of existing or proposed residents.

Conditions

13. The Council has proposed a total of four conditions; that the development begin within three years of the date of permission, that the development be constructed in accordance with the approved plans, that the materials used in construction of the development match the existing dwelling, and that a condition be applied to restrict the use of the annex building as ancillary to the main dwelling.
14. Given the retrospective nature of the application, I do not consider the conditions relating to timescale, plans and materials are necessary.
15. A change in use of the annex building to a separately occupied dwelling would require planning permission as a change of use within the meaning of 'development' set out in section 55 of the Town and Country Planning Act 1990 (as amended) and therefore a condition restricting its future use to ancillary to the main house is not necessary or reasonable and would not meet the relevant legal and policy tests for planning conditions.

Conclusions

16. For the reasons given above, I find that the proposal accords with the relevant policies of the development plan and no material considerations indicate that the proposal should be determined other than in accordance with the development plan.

Kim Langford Tejrar

INSPECTOR