



Appeal Decision

Site visit made on 15 August 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/W2465/D/23/3314729

33 Moulton Road, Hamilton, Leicester, Leicestershire LE5 1BS

- 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 Mrs Vanitaben Dusara against the decision of Leicester City Council.
 - The application Ref 20221693, dated 18 August 2022, was refused by notice dated 1 November 2022.
 - The development proposed is proposed adaptation for registered disabled persons with single storey ground floor extension on side for bedroom and shower room facilities.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the appellant as given on the appeal form differs from that on the planning application form. However, it has been confirmed that the name stated on the appeal form is a family member progressing the appeal on behalf of the applicant. As the right of appeal rests with the original applicant then this is reflected in the heading above.
3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

4. The main issues are the effect of the proposal on the living conditions of residents of the site in respect of amenity space, light and outlook, with due regard to the circumstances of the appellant.

Reasons

5. The existing dwelling has 3 bedrooms, and the appeal proposal would result in a 4-bedroom dwelling. The Council's Residential Amenity Supplementary Planning Document 2008 (SPD) recommends that houses of the size of the application site should have a minimum rear garden area of 100sqm. This is a

- reasonable requirement as it is important that family housing should have access to suitable private amenity space.
6. The Council's officer report states that the proposal would reduce the size of the garden from approximately 82sqm to approximately 48sqm, which would be significantly below the minimum figure of the SPD.
 7. The existing garden of the appeal site does not meet the recommended SPD area. The SPD is guidance rather than development plan policy, and a degree of flexibility can be used when applying the minimum figure. This is reflected in the size of gardens referred to by the appellant on developments elsewhere. The advice from the Council that the extension is reduced in size also reflects the advisory status of the SPD as a reduced extension would also result in an amenity area smaller than that recommended in the SPD.
 8. However, even given the status of the SPD, the proposal would result in a very limited area of private amenity space for residents of this family dwelling. The remaining garden area would also be detrimentally affected by the degree of enclosure created by the garage within the site as well as a gable wall of a nearby dwelling located close to the boundary.
 9. The appellant states that the reduced garden area would be sufficient for their family, but I am mindful that the extension would remain should the circumstances of the appellants family change or should the house be sold. Nearby public open green space would also not be a suitable alternative for the loss of private amenity space.
 10. Based on what I have seen and read, the appeal proposal would result in an unacceptable reduction in private amenity space to the significant harm of the living conditions of existing and future residents of the dwelling.
 11. My attention has been drawn to the personal circumstances of the appellant, who emphasises that the proposal would enable ongoing care as well as access to a toilet and washing facilities. The appellant currently has a bedroom on the first floor of the property, and based on the evidence before me this does not provide suitable access for care or to facilities, and the property cannot be adapted through measures such as a stair lift.
 12. The appellant refers to the Council's Social Services Department Guidelines for use when considering major adaptations for disabled people. However, the proposed bedroom would exceed the minimum floor area for a principal double bedroom as set out in those Guidelines. The appellant refers to a potential need for a live-in carer or for additional equipment such as a ceiling mounted hoist. But this does not demonstrate that the floor area stated in the Guidelines is unsuitable for those circumstances.
 13. In considering this appeal I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 which sets out relevant protected characteristics, including disability. Whilst I am mindful of the needs of the appellant, it has not been demonstrated that the scale and design of the proposal is specific to their needs or that they cannot be met by a more acceptable scheme of a reduced size. The PSED considerations do not outweigh the significant harm that I have identified in respect of the reduction in external amenity area, and following careful consideration of these particular matters I

am satisfied that the impact of dismissing this appeal is proportionate and justified.

14. The proposal would lead to the loss or enclosure of glazed double doors which serve a kitchen/diner, with a subsequent reduction in natural light reaching the room and a loss of the view of the garden. However, I am mindful that this would also be the case even if a smaller extension is built as suggested by the Council. Furthermore, a rooflight on the lobby of the proposal could serve the dining area, and there is also a kitchen window which would provide natural light for the room as a whole. Within that context, and given the circumstances of the appellant, I do not consider that the loss of light would be sufficient to warrant the refusal of planning permission.
15. The Council refers to the outlook and levels of light for the new bedroom. However, even given the proximity of garden walls and other enclosing features, I do not consider that the proposal would result in an unacceptably restricted outlook or inadequate levels of light for occupants of the room. The room would also be served by a rooflight which would increase levels of natural light in the room. These issues would also not be significantly different were a smaller extension to be provided as suggested by the Council.
16. Notwithstanding my conclusions in respect of light and outlook, I conclude that the proposal would lead to significant harm to the living conditions of existing and future residents in respect of private amenity space. I have had regard to the circumstances of the appellant, but it has not been demonstrated that an extension of the size proposed is required to meet their needs, and this matter does not therefore outweigh the harm I have identified. The proposal would therefore be contrary to the National Planning Policy Framework which seeks to achieve a high standard of amenity for existing and future users of development. The proposal would also be contrary to the advice of the SPD in respect of the provision of amenity space.
17. I find no conflict with Policy PS10 of the City of Leicester Local Plan 2006 as I have found no harm in respect of light and overshadowing, and this policy does not refer to the provision of amenity space. However, this does not negate my conclusions on the harm arising from the proposal.
18. I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR