



Appeal Decision

Site visit made on 12 September 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2023

Appeal Ref: APP/N4720/D/23/3324941

37 Nursery Lane, Moortown, Leeds LS17 7ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Miss C Flynn against the decision of Leeds City Council.
 - The application Ref 23/00070/FU, dated 4 January 2023, was refused by notice dated 6 April 2023.
 - The development proposed is Two storey side extension together with single storey rear extension. New porch to front.
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Decision

1. The appeal is allowed and planning permission is granted for Two storey side extension together with single storey rear extension. New porch to front at 37 Nursery Lane, Moortown, Leeds LS17 7ED in accordance with the terms of the application, Ref 23/00070/FU, dated 4 January 2023, and the plans submitted with it, subject to the conditions set out on the attached schedule.

Procedural Matters

2. The description of development in the above banner heading has been taken from the original application form. The decision notice includes for demolition of single storey side extension, porch to front and detached garage. I have determined the appeal accordingly.
3. Planning permission has previously been granted for demolition of single storey side extension, porch to front and detached garage; erection of part two storey part single storey side/rear extension; new porch to front under reference 22/03920/FU. At my site visit, I observed that works have started onsite, and the Council's officer report explains that this scheme has been afforded weight as a viable fallback position. I have limited detail regarding this previous scheme in order to attach it any weight and I have therefore determined the appeal based on its own merits and the evidence in front of me.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of No. 35 Nursery Lane (No. 35) with particular reference to outlook and daylight/sunlight.

Reasons

5. The appeal property is a two-storey semi-detached dwelling forming one half of a pair of properties located within a residential setting. It is located along a row of other similar dwellings that also form pairs of semi-detached properties. Each pair generally align with one another and are well spaced from other pairs

- with driveways to the side as well as single storey annexes and good-sized rear gardens.
6. The neighbouring property at No. 35 is detached from the appeal site to the east and is separated by a similar driveway and single storey annex. A tall fence runs along the eastern boundary dividing both properties and their associated amenity spaces.
 7. Amongst other works, the proposed development seeks to construct a two-storey side extension that would project further back from the existing rear elevation by approximately 3 metres and would wrap around a small section to the rear before stepping down to single storey which would cover the width of the remaining rear elevation.
 8. Whilst the two-storey element to the rear would be visible from No. 35 when utilising their rear garden space, the projection would not extend significantly from the rear elevation, with a limited width to the rear and would sit at a lower height than the existing roof with an overall design similar and complementary to the main property. It would therefore not form a significant dominant addition.
 9. Although the proposed development would be sited closer to the shared boundary, this relationship is not uncommon in such residential settings, and I have had regard to the appellants evidence of other similar extensions nearby. Additionally, the garden area of No. 35 is of a good size with an overall good separation distance to the appeal site from the majority of the garden area along with a good level of outlook generally. This, coupled with the overall limited size and scale would not have an overbearing effect on the outlook of existing neighbouring occupiers when utilising their garden space.
 10. Given the overall limited size and scale of the proposed development and separation distance that exists, the proposed development would not result in an unacceptable harm having regard to light as any loss of daylight/sunlight would be limited to a small section of the garden space with the majority remaining unaffected.
 11. The Council has raised concern in relation to the neighbouring windows serving No. 35 although the reason for refusal as set out on the decision notice focuses on the neighbouring private amenity space only. Notwithstanding, the windows serving No.35 on the rear elevation of the property are positioned further back from the boundary at a reasonable distance where outlook is onto their associated garden area with restricted views of the appeal property. On this basis, outlook from within the property would largely be retained. I am also content that in relation to daylight and sunlight, the proposed development would not result in an unacceptable harm to these windows given the overall distance that exists and size and scale of the proposed development. Whilst there is a porch at ground floor level and window at first floor level within the side elevation of No. 35, the Council's officers report explains that the proposed two-storey side element is considered not to lead to any unacceptable overdominance or overshadowing to the neighbouring property and based on the evidence in front of me and my own observations onsite, I have no reason to disagree with this assessment.
 12. I appreciate that due to the distance to the boundary, it would be a breach against the guidelines set out within the Leeds City Council Householder Design

Guide Supplementary Planning Document, 2012 (SPD). However, the proposed development does not conflict with the overall principle of the guidelines which amongst other matters, seeks to protect the amenity of neighbours.

13. I conclude that the proposed development would not have an unacceptable impact on the living conditions of No. 35 Nursery Lane with particular reference to daylight/sunlight and outlook. The proposed development would therefore accord with Policy P10 of the Leeds City Council Core Strategy (as amended by the Core Strategy Selective Review, 2019) and Policy GP5 of the Leeds Unitary Development Plan (Review 2006) which together, amongst other matters, explains that development proposals should seek to avoid problems of loss of amenity. For the same reasons the proposed development would accord with Policy HDG2 of the SPD and aspirations of the National Planning Policy Framework relating to achieving well-designed places.

Other Matters

14. I note the Council's comments that the proposed first-floor rear element is a significant material change from the previous planning permission which was considered to be acceptable. As set out above, limited details have been provided in relation to this previous application despite it being undisputed that it remains a viable fallback position. I have therefore determined the current appeal based on its own merits and evidence before me and such matters would not affect my findings on the main issue.

Conditions

15. I have considered the conditions suggested by the Council including the standard time for commencement of development which I have applied. I also agree that a plans condition is necessary to ensure that the approved development is carried out in complete accordance with the approved plans. A condition relating to materials would also be required in the interests of the satisfactory appearance of the development. A condition requiring obscure glazing is necessary in the interests of residential amenity. A condition relating to the car parking area is also necessary to ensure the free and safe use of the highway. The Council has suggested a condition relating to additional openings. However, as I am considering the scheme that is before me, I do not find it either reasonable or necessary to attach such a condition.

Conclusion

16. For the reasons given above and having had regard to the development plan as a whole, the appeal is allowed, and planning permission is given subject to the attached conditions.

N Teasdale

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Detailed Design Drawing No. 22-FSK-11-02 Revision D; Proposed Sections Drawing No. 22-FSK-11-03 Revision A.
- 4) Any glazing in the new door in the east facing side elevation of the proposed two storey extension shall be glazed with obscure glass to at least level 3 obscurity and thereafter retained as such.
- 5) Prior to the first occupation of the extension hereby approved, the car parking area as shown on plan 22-FSK-11-02 Revision D shall be laid out, surfaced and sealed in such a way that water does not discharge onto the public highway. The parking area shall not be altered or converted and must be kept free from any form of obstruction or impediment, and retained for the parking of private motor vehicles for the benefit of the occupant of the dwelling for the lifetime of the development.

End of schedule