



Appeal Decision

Site visit made on 12 September 2023

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 13 October 2023

Appeal A Ref: APP/W2465/C/22/3310109

80 Ocean Road, Leicester LE5 2ES

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Charlotte Allen against an enforcement notice issued by Leicester City Council.
 - The notice was issued on 6 October 2022.
 - The breach of planning control as alleged in the notice is Without planning permission, construction of a single storey extension to the rear of the property.
 - The requirements of the notice are to: 1. Remove the 8-metre-deep single storey extension at the rear of 80 Ocean Road and 2. Remove all material resulting in compliance from the above step from the site.
 - The period for compliance with the requirements is: 2 (two) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/W2465/C/22/3310106

82 Ocean Road, Leicester LE5 2ES

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Charlotte Allen against an enforcement notice issued by Leicester City Council.
 - The notice was issued on 6 October 2022.
 - The breach of planning control as alleged in the notice is Without planning permission, construction of a single storey extension to the rear of the property.
 - The requirements of the notice are to: 1. Remove the 8-metre-deep single storey extension at the rear of 80 Ocean Road and 2. Remove all material resulting in compliance from the above step from the site.
 - The period for compliance with the requirements is: 2 (two) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

Appeal A

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out, namely the erection of a single storey extension to the rear of the property at 80 Ocean Road, Leicester LE5 2ES as shown on the plan attached to the notice.

Appeal B

2. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended, for the development already carried out, namely the erection of a single storey extension to the rear of the property at 82 Ocean Road, Leicester LE5 2ES as shown on the plan attached to the notice.

Procedural Matters

3. The appeal properties, No. 80 and No. 82 Ocean Road (No. 80 and No. 82) are a pair of semi-detached properties owned by Ms Charlotte Allen, the appellant. The ground floors of both properties have been extended together as one development to the rear, although separated internally, and each are subject to an enforcement notice which alleges the construction of a single storey extension and requires its removal to comply with the notice. As the appeals relate to the same appellant and my findings in relation to Appeal A have a direct bearing on my findings in relation to the grounds of appeal in Appeal B, to avoid duplication, I have dealt with the appeals together in one decision letter.

Background

4. Appeal A and Appeal B relate to the single storey extension to the rear of No. 80 and No. 82. The appeal properties are located on a corner plot in a residential area where Ocean Road joins Jennett Close. Both dwellings have been significantly altered, with the eaves and ridge height raised, and the wall plate extended to provide another floor. The alterations also include a two-storey extension to the side of No. 82. These works were the subject of an approved planning application. At the time of my visit, the rear gardens were sub-divided, internal works were progressing and the properties were unfurnished and vacant. I was able to view the development at my visit from the rear gardens and from each floor of the appeal properties to understand their relationship with their neighbours.

Appeal A - Ground (a) and the deemed planning application

Main Issue

5. This is the impact of the development on the living conditions of the occupants of the neighbouring residential properties, 78 and 82 Ocean Road, in terms of outlook and light.

Reasons

6. The appeal property, No. 80, shares a boundary with 78 Ocean Road (No. 78) to its north. No. 80 sits slightly behind No. 78 and due to local topography, is at a slightly higher ground level. High level vertical close boarded timber fencing forms a boundary between the properties. There is a gap either side of the boundary fence between No. 78 and No. 80 which provides pedestrian access from the front of both properties to their rear gardens. The appeal development is a flat-roof single-storey extension which encompasses the entire width of the property. It has a maximum height of 3m and extends some 8m in depth. The reasons for issuing the notice cite an overbearing impact, a

loss of light and loss of outlook for the occupants of the neighbouring properties.

7. In terms of its relationship with No. 78, while the extension is likely to have some effect on the users of the ground floor space and garden due predominantly to its depth, the mass of the development is lessened by the flat roof on the single storey structure. Although the 45-degree line¹ from the mid-point of next door's (No. 78) window would be technically breached, the appeal development would not have an unacceptable enclosing or overshadowing effect on the neighbouring property given its roof design, the set back of the extension from the common boundary and the space between the properties. Together these factors reduce the impact of the extension, limiting its effect on the occupants of the neighbouring property. Accordingly, I am of the view that the outlook from No. 78 and the light entering the rear of the property would not be significantly compromised to be unduly harmful.
8. Turning to the effect of the development on its adjoining neighbour, No. 82. Both dwellings have similar sized extensions of the same height, and which extend some 8m into their rear gardens. Both were constructed simultaneously as one development. The appeal on ground (a) is that planning permission ought to be granted for the matters stated in the notice, that is, the rear extension as built. In these circumstances the effect of the extension, by virtue of scale and siting, mostly replicating its neighbour, would not be detrimental in terms of its impact upon the living conditions of occupants of No. 82 regarding loss of outlook or loss of light.
9. For the reasons given above, the development does not conflict with Saved Policy PS10 of the City of Leicester Local Plan 1996 – 2016 (adopted 2006) (the "LP") which, amongst other matters, seeks to ensure development takes into account the amenity of neighbouring residents. In this respect, I consider that this also accords with paragraph 130 f) of the National Planning Policy Framework.

Conditions

10. I have considered the imposition of appropriate planning conditions, having regard to the six tests set out in the Framework. The Council has not suggested any conditions to be imposed in the event I allow the appeal. Based on the evidence before me and the observations I made on site, I find no reason to conclude otherwise.

Conclusion on Appeal A

11. For the reasons given above, having considered the development plan as a whole and all material considerations, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. As the appeal has succeeded on ground (a) it follows that ground (f) and ground (g) do not need to be considered.

¹ Guidance provided at Appendix G of the Council's Supplementary Planning Document – 'Residential Amenity' (adopted 2008) (SPD)

Appeal B - Ground (a) and the deemed planning application

Main Issue

12. This is the impact of the development on the living conditions of the occupants of the neighbouring residential property, 80 Ocean Road, in terms of outlook and light.

Reasons

13. The appeal property, No. 82, and its rear garden bound Jennett Close to the south with the closest properties along this roadway being on the opposite side. Its semi-detached pair is No. 80. As described above, the pair have been extended in a similar manner and under Appeal A, I have considered the breach of planning control and its impact upon its immediate neighbour No. 82. In view of my conclusion on the effects of the development on No. 82, I would naturally conclude that the effect of the development at No. 82 would have a similar impact on the adjoining property, No. 80. Thus, I find that by virtue of its scale and siting, replicating its neighbour, the extension is not overbearing or harmful in terms of its impact upon the living conditions of the occupants of No. 80 regarding loss of outlook or loss of light. In this respect I consider that there is no conflict with Policy PS10 of the LP or with paragraph 130 f) of the National Planning Policy Framework.

Conditions

14. I have considered the imposition of appropriate planning conditions, having regard to the six tests set out in the Framework. The Council has not suggested any conditions to be imposed in the event I allow the appeal. Based on the evidence before me and the observations I made on site, I find no reason to conclude otherwise.

Conclusion on Appeal B

15. For the reasons given above, having considered the development plan as a whole and all material considerations, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. As the appeal has succeeded on ground (a) it follows that ground (f) and ground (g) do not need to be considered.

S A Hanson

INSPECTOR