



Appeal Decision

Site visit made on 21 December 2023

by Alison Hartley, LLB(Hons), Solicitor, MBA

an Inspector appointed by the Secretary of State

Decision date: 26th January 2024

Appeal Ref: APP/W2465/D/23/3331325
22 Chapel Lane, Leicester, LE2 3WE

- 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 Peter Stennett-Green against the decision of Leicester City Council.
 - The application Ref 20231205, dated 27 June 2023, was refused by notice dated 4 September 2023.
 - The development proposed is a part single storey, part double storey extension to rear of house plus new porch to front.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (Framework) has been updated since the parties' appeal submissions were made. However, as the revisions do not affect the matters under consideration in this appeal, it was not considered necessary to seek further comment.
3. On my site visit I was satisfied that I did not need to visit the neighbouring property, 20 Chapel Lane, as the impact of the proposal on the outlook from 20 Chapel Lane first floor bedroom window was very evident from viewing the rear garden of the appeal site.

Main Issue

4. The effect of the proposal on living conditions of the occupiers of 20 Chapel Lane with particular regard to the outlook from their first floor bedroom window.

Reasons

5. From my observations at the site I consider that the distance and angles between the bedroom window of 20 Chapel Lane and the extension would unacceptably adversely affect the outlook from 20 Chapel Lane. Even though the bedroom may be used less extensively than a living room, it is a principal room, and the impact on the living conditions within the room are important. Whilst obscure glazing to the appeal proposal bedroom window on the west flank elevation could be conditioned, from my observations at the site visit I

consider that this would not overcome the harm caused from the enclosing effect of the west flank elevation on the outlook from the 20 Chapel Lane first floor bedroom window.

6. The harm caused by this element of the proposal to the outlook from the neighbouring dwelling is contrary to the aims of Policy CS3 of the Leicester City Council Core Strategy (2014) (CS) that development should respond positively to its surroundings and create buildings and spaces that are fit for purpose. Saved Policy PS10 of the City of Leicester Local Plan (2006) (LP) is also engaged, setting out that relevant amenity considerations include the visual quality of the area, privacy and overshadowing.
7. The Residential Amenity Supplementary Planning Document (2008) (SPD), Appendix G provides local design guidance for house extensions. Although the proposal meets the standards with regard to acceptable living standards for the occupiers of 22 Chapel Lane, it fails in its design in respect of the harm to the outlook from 20 Chapel Lane first floor bedroom window. The SPD states that extensions should not spoil the outlook from the main windows of principal rooms and the gardens of neighbouring properties.
8. This aspect of the proposal also conflicts with the Framework, which seeks development that creates a high standard of amenity for existing and future users. The Framework also states that development that is not well designed should be refused, especially where it fails to reflect local design policies.
9. Whilst there have been changes to the development plan since the SPD was published, the broad aims of safeguarding the living conditions of the neighbouring occupier are still relevant and consistent with Framework paragraph 135(f).
10. I conclude that the level of harm to the outlook from the neighbouring dwelling (20 Chapel Lane first floor bedroom window) would result in an unacceptable impact on the existing and future occupiers of that neighbouring dwelling by virtue of spoiling their outlook.

Other Matters

11. The appellant asserts that permitted development rights (PD rights) could allow an extension that would have a more adverse impact on the neighbour than the appeal proposal by virtue of a two storey element being closer to the 20 Chapel Lane boundary. Whether the permitted development would be lawful has not been addressed by the LPA and the appellant accepts that the lawfulness of the fall back position is not a matter before me.
12. Even if it were lawful, the scale of development allowed by virtue of PD rights would be more limited than the appeal proposal. The appeal proposal would extend an additional 1 metre into the rear garden area of the appeal site from that which might be allowed under PD rights. From my observations on site, I consider that the undue enclosing effect of this larger scale of development on the outlook from 20 Chapel Lane across the appeal site would be more harmful than the more limited 3 metres allowed under PD rights. I reach this conclusion notwithstanding the possibility that a two storey element could potentially be closer in proximity to the 20 Chapel Lane boundary under PD rights. As such, I give the fall back position little weight.

13. As planning permission runs with the land I have given the appellant's personal circumstances little weight. There is nothing to suggest that the proposal is required to provide acceptable living conditions for occupants of the property.
14. A small area at the end of the garden to the appeal site falls within the Knighton Village Conservation Area, however, the built development proposals are not within it. Section 72 of the Listed Building and Conservation Areas Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area when determining proposals in a conservation area. The proposed extensions are fairly modest in size in relation to the appeal property and its plot and the design is sympathetic to the original building. The extensions would not be unduly prominent in public views from the Conservation Area. As such, I am satisfied that they would preserve the heritage asset.

Conclusion

15. For the above reasons I conclude that the proposal conflicts with the development plan taken as a whole and the Framework. There are no other material considerations that outweigh the conflict with the development plan. The appeal should be dismissed.

A Hartley

INSPECTOR