



Appeal Decision

Site visit made on 20 February 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2024

Appeal Ref: APP/N4720/D/23/3333665

42 Rooms Lane, Morley, Leeds LS27 9PB

- 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 and Mrs Richard Barton-Kennedy against the decision of Leeds City Council.
 - The application Ref 23/04130/FU, dated 5 July 2023, was refused by notice dated 30 August 2023.
 - The development proposed is the demolition of existing garage, part single, part two storey side/rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage, part single, part two storey side/rear extension at 42 Rooms Lane, Morley, Leeds LS27 9PB, in accordance with the terms of the application Ref 23/04130/FU dated 5 July 2023 and the plans submitted with it, subject to the following conditions;
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development shall be carried out in accordance with the following approved plans;
Plans as proposed, drawing number 3009.02.
 - 3) 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 in terms of type, colour and texture.
 - 4) The development hereby permitted shall not be occupied until the window within the north western facing elevation of the extension has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room shall be capable of being opened. The opening shall be retained as such for the lifetime of the development.
 - 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Orders revoking and re-enacting that Order with or without modification) planning permission shall be obtained before any windows are inserted in the side elevations of the proposed extension hereby permitted.

Procedural Matters and Main Issue

2. The description of development in the banner heading above is taken from the Council's decision notice and the appeal form, as it more accurately describes the proposed development.
3. The Council has not objected to the proposal on the grounds of any adverse impacts on the attached semi-detached dwelling of No 44 Rooms Lane, or the character and appearance of the area. Nor has it articulated within its officer report or decision notice, concerns relating to a loss of outlook or light from the habitable windows belonging to No 40 Rooms Lane. Based on the evidence before me I have no reason to take a different view.
4. I therefore find that the main issue in relation to this appeal, is the effect of the proposed development upon the living conditions of the occupiers of No 40 Rooms Lane, with particular regard to outlook from the rear garden.

Reasons

5. The appeal site comprises a semi-detached dwelling located within a residential area. It is separated from No 40 Rooms Lane by narrow driveways to each dwelling, with the appeal property at a slightly lower land level. The proposed development would consist of a deeply recessed 2-storey extension to the side, which would further extend into the rear garden roughly the depth of the existing garage to be demolished.
6. I am referred to the Leeds City Council Householder Design Guide, Supplementary Planning Document 2012 (SPD) which sets out as a general rule of thumb that single storey extensions can project 3m and first floor extensions can project 1m on a common boundary. It explains that this is to allow a sufficient level of sunlight and daylight to enter neighbouring windows. As indicated above, the Council has not articulated any concerns with regard to a loss of light given the host dwellings' position to the north of No 40. Moreover, the appellant's drawings indicate that the proposed extension would meet the SPD's 45° Code, which the Council does not dispute. Irrespective, it also contends that is not the appropriate test in this instance.
7. Although the proposed extension would be 2-storey in height, sited very close to the boundary with No 40 and would extend from approximately halfway along the existing side elevation of the host dwelling back into the rear garden, such a relationship is not uncommon in residential settings. A good-sized gap would be maintained between the boundary of the appeal site and the side elevation of No 40, such that it would not feel unduly enclosed to the side of the adjacent dwelling. In any event, this is essentially a passageway along the side of the adjacent dwellings, rather than private amenity space.
8. The 2-storey rear projection would extend from the rear of the host dwelling approximately 4.7m as suggested by the Council and as indicated by the written dimensions shown on the submitted plans, rather than the 3.37m advised by the appellant¹, which only accounts for the distance from the neighbours ground floor rear extension. Nonetheless, whilst visible from the good-sized rear garden of No 40, the projection could not be described as significant or excessive, relative to the length of the garden as a whole. Furthermore, the hipped roof sloping down to the boundary would help to

¹ As cited by the appellant in their statement of case.

reduce the scale of the proposed extension at eaves level. I find that the proposed development would not have an excessively overbearing impact and instead, a good level of outlook would be retained for the occupiers of No 40 when utilising their garden.

9. Due to the distance of the 2-storey projection along the boundary, the proposal would breach the guidelines set out in the SPD. However, the proposed development does not conflict with the overall principle of the guidelines which seeks to protect the amenity of neighbours. The single storey element to the rear of the 2-storey extension would largely be concealed by the boundary fence, such that it would not appear unduly intrusive.
10. The proposed development would not have an unacceptable impact on the living conditions of the occupiers of No 40, with particular regard to outlook from the rear garden. The proposed development would therefore comply with Policy P10 of the Leeds City Council Core Strategy (as amended by the Core Strategy Review, 2019) and Policy GP5 of the Leeds Unitary Development Plan (Review 2006). Together these policies seek to ensure that new development protects residential amenity, objectives also shared with HDG2 of the SPD and paragraph 135f) of the Framework.

Conditions

11. I have considered the Council's suggested conditions. Along with the standard time limit, conditions are required for the proposed materials to match the existing dwelling in the interests of appearance, and to list the plans in the interests of certainty.
12. Further conditions have also been suggested with regard to the installation of obscured glazing and position of opening lights in the north-western elevation, and the prevention of new openings being inserted elsewhere within the proposed extension. Given the proximity to neighbouring dwellings and the potential for overlooking to occur without these conditions, I consider them to be reasonable and necessary in this instance. I have amended the wording of condition No 4 to ensure that the requirements for the north-western window are implemented before the extension can be occupied.

Conclusion

13. For the reasons given above and having had regard to the development plan as a whole, the appeal is allowed.

M Clowes

INSPECTOR