



Appeal Decision

Site visit made on 27 February 2024

by **Andrew McCormack BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/N4720/D/23/3332568
35 Whinmoor Court, Leeds LS14 1NX

- 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 Bilbil Shehu against the decision of Leeds City Council.
 - The application Ref 23/03880/FU, dated 25 June 2023, was refused by notice dated 21 August 2023.
 - The development proposed is a two-storey side extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A previous planning application ref: 22/08452/FU relating to similar proposed works to the appeal property was refused by the Council. The Council has indicated that issues relating to that reason for refusal have not been sufficiently resolved in this appeal proposal. As such, the Council refused consent for the proposed extension that is the subject of this appeal. Notwithstanding this, and in any event, I confirm that I have determined this appeal solely on the merits and circumstances of the proposal before me, taking account of all material planning considerations that have been identified.
3. On 19 December 2023, the Government published a revised National Planning Policy Framework (the Framework) and I have therefore determined this appeal in accordance with that most recently revised document. However, in my assessment, the revised Framework results in no substantive changes to any relevant policy within it that relates to this appeal.

Main Issue

4. The main issue is the effect of the proposed extension on the living conditions of the occupants of 33 Whinmoor Court (No.33) with regard to outlook and daylight.

Reasons

5. The appeal relates to a detached two-storey dwelling occupying a corner plot at the junction of Whinmoor Court and Whinmoor Gardens. Although the address for the appeal property is listed as Whinmoor Court, the principal elevation of the dwelling faces Whinmoor Gardens. The property is built in brick with a slate-tiled pitched roof. There is a projecting porch at the front door and ground floor bay windows to the front elevation as well as an existing single-storey extension to the side which is to be replaced as part of the appeal proposal. There is also a detached double garage to the south of the property and garden areas to the front and sides of the dwelling which are enclosed by a mix of tall hedges, mature planting, a low brick wall and railings with access gates to the footpath and driveway entry points. Dwellings to the east on Whinmoor Court are arranged in a linear

- row on a north-south axis, offering a degree of uniformity in scale, form, height and design. Dwellings to the south share similar architectural attributes and are orientated east-west.
6. Policy P10 of the Leeds Core Strategy says that development should protect amenity and it is noted that this is also reflected in saved policies GP5 and BD6 of the Leeds Unitary Development Plan (UDP) Review. Policy BD6 specifies further that new buildings should be designed in such a way that considers their own residential amenity and that of their surroundings. This aim and intention are something which is also reflected in policy HDG2 of the Leeds Householder Design Guide.
 7. The proposed extension would be around 2.1 metres from the boundary with No.33 and would be set marginally in from the existing rear wall of the host property that faces No.33. In terms of scale, the proposal would have a total width of 5.1 metres and a height of 7.0 metres. As such, taking account of its position, height and in relation to No.33 and its boundary, I find that the two-storey structure would significantly increase the overall scale of the host property along its boundary with No.33. As a result, it would over-dominate the rear garden of No.33. It would also create an overbearing sense of enclosure which would have a significant detrimental impact on the outlook of neighbouring occupants from the rear of their property and, unacceptably in my view, impair their use and enjoyment of their rear garden.
 8. Furthermore, the harm resulting from the proposed extension would be exacerbated by the overwhelming nature of the solid-to-void ratio on the east facing elevation of the scheme which would face the rear garden of No.33. It is accepted that the removal of windows from this proposed elevation is necessary to protect overlooking and privacy conflicts between the occupants of the host property and No.33. However, it is my view that a solid brick wall design at a two-storey height, and of the scale and proximity proposed, would be substantively visually oppressive for the occupants of No.33 in its appearance and nature.
 9. It is noted that the proposed extension would be located to the west of No.33. Given its height, scale and proximity to its neighbouring property and boundary, I find that it would inevitably have an overshadowing impact on the rear garden of No.33. This adverse impact would be particularly heightened during afternoons and evenings. Moreover, when considered in comparison with the current situation and the existing single-storey extension in situ, it is clear to me that the overshadowing that would result from the proposed two-storey extension would be significant and substantially greater for the occupants of No.33. In my assessment, this increased overshadowing impact and potential reduction in the level of daylight would be unacceptable.
 10. The appellant states that the proposal is modest in size and has been designed to be subservient in scale and height to the host dwelling. It has also been designed using matching facing materials to complement and be in keeping with the host dwelling. The appellant also states that the proposal is consistent with the Council's guidelines and policies as well as relevant policies in the Framework. I have had regard to these points and acknowledge the efforts that the appellant has made in seeking to address concerns arising from the previous proposal. However, this proposal, due to its position, height, width, overall scale and design would result in unacceptable significant harm to the living conditions of the occupants of No.33 in terms of outlook and daylight.
 11. It is acknowledged that the proposed extension would provide additional living space for the occupants of the appeal property for which I give a modest amount of weight. Nonetheless, I find that the identified harm would be significantly detrimental to the living conditions of neighbouring occupants at No. 33. This would be manifest in terms of reduced outlook and daylight by reason of the scale, height, design and proximity of the proposed extension to the neighbouring garden and dwelling. Therefore, having taken account of all other identified material planning considerations, it is my view that the significant harm I have identified clearly outweighs the modest benefits of the proposal.

12. Consequently, I conclude that the proposed extension would result in a significant adverse impact on the living conditions of the occupants of 33 Whinmoor Court with regard to outlook and daylight. As a result, the proposal fails to comply with the aims and intentions of policy P10 of the Leeds Core Strategy, saved policies GP5 and BD6 of the Leeds UDP Review, policy HDG2 of the Leeds Householder Design Guide SPD and guidance set out in the relevant sections of the Framework which seeks to protect the amenity of neighbours.

Conclusion

13. For the above reasons, and having regard to all other matters raised, I conclude that this appeal should be dismissed.

Andrew McCormack

Inspector