



Appeal Decision

Site visit made on 12 March 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Appeal Ref: APP/X2410/D/23/3333448

1 Rothley Road, Mountsorrel, Leicestershire LE12 7JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Chamberlain against the decision of Charnwood Borough Council.
 - The application Ref is P/23/1184/2.
 - The development proposed is two storey side extension and single storey rear extension to semi-detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my site visit I entered both 1 and 1B Rothley Road, including the gardens of both properties.
3. The National Planning Policy Framework (the Framework) was updated in December 2023 following the issuing of the Council's decision. Since the revised Framework does not materially alter the national policy approach in respect of the issues raised in this appeal it has not been necessary to consult the main parties.

Main Issues

4. The main issues are the effect of the proposal upon the character and appearance of the host dwelling and the surrounding area; and the effect of the proposal upon the living conditions of the occupiers of 1B Rothley Road with regard to outlook, light and privacy as well as the occupiers of the surrounding dwellings with regard to privacy.

Reasons

Character and Appearance

5. The appeal property is the left half of a two-storey semi-detached building. Its roof is hipped to either end and features a short ridge. It has a mono-pitched canopy over the ground floor, including its bay windows. The first floor is rendered, and the ground floor is of exposed brick.
6. The immediate street scene is generally characterised by evenly spaced pairs of semis and terrace properties with hipped roofs. Whilst there is some variety in the design of the houses in the area, they are generally symmetrical in their appearance. This positively contributes to the character and appearance of the

- area. The similar scale and appearance of the pair of dwellings makes a positive contribution to their character and appearance and that of the surrounding area.
7. To the side of 1 Rothley Road (No 1) is a single storey garage that is connected by a door that provides access to the garden to the rear. It is built from bricks of contrasting colour to the house. While this relates poorly with the house, its height and setback from the attached properties means it does not detract from their consistent form and appearance.
 8. The proposed extension would be built in line with the property's front wall and its roof would continue from the existing, so would not be lower than the existing house or setback from it. It would also only be slightly narrower than the host dwelling. The extension would use similar materials and window details, extend the canopy and the hipped roof which would be consistent with the design of the host dwelling. Nevertheless, it would significantly extend the mass of the house creating a much bulkier dwelling. The scale and form of the extension would almost double the width of the house and the existing dwelling would be subsumed and would no longer be the dominant building. As a result, the extension would not appear subordinate to the host dwelling.
 9. The scale of the extension including the significant increase to the width of the property would harm the character and appearance of the property and lead to a significant imbalance with the consistent form and appearance of the semi-detached pair. Due to its visibility within the street scene, it would also harm the positive contribution the pair of properties makes to the surrounding area.
 10. I have not been given the planning history for 22 Rothley Road (No 22) but there is a front door within what could be the extension to that property, and this has effectively created what looks like an additional dwelling. The subdivision of the front garden also supports this view. I do not know if this was an extension or a new dwelling but within the street scene that is how that development is perceived. This differs from the scheme before me which would be viewed as an extension to No 1. This building has also been set back from the front elevation of No 22 unlike the proposed extension.
 11. Given my concerns with some of the fundamental design principles of the scheme, I am not satisfied planning conditions could mitigate the harm.
 12. In light of the above, I conclude that the proposed extension would harm the character and appearance of the host dwelling and the surrounding area. Consequently, the proposal would not accord with Policy CS2 of the Charnwood Local Plan 2011-2028 Core Strategy (CS) (adopted 2015), saved Policies EV/1 and H/17 of the Borough of Charnwood Local Plan 1991-2006 (LP) (adopted 2004), emerging Policy DS5 of the Draft Charnwood Local Plan 2021-2037 (Draft LP) and The Design Supplementary Planning Document that was adopted in 2020 (SPD). It also would not accord with the Framework. These seek, amongst other matters, to require that development is of high design quality which responds positively to its context and surroundings by respecting and enhancing the character of the area having regard to, amongst other things, massing, scale and layout. Furthermore, new extensions should remain compatible in scale, mass and design with the original dwelling.

Living Conditions

13. The ground level at No 1 is higher around the side of the house and then drops to a lower level to the rear similar to 1B Rothley Road's (No 1B) garden. As such, from this land along the side of No 1 its occupiers can already overlook the rear of No 1B's garden. However, the area closest to the rear of No 1B is generally not overlooked.
14. The proposed patio area would be located close to No 1B's garden. Due to the height difference between them, when standing at the edge of the patio area closest to No 1B, it would be possible to see most of its rear garden, including the raised decking area close to the property. This is an area the occupiers are likely to use for significant periods of time and the overlooking of this decking area would be more keenly felt. Accordingly, the proposal would result in the occupiers of No 1 being able to overlook most of the garden at No 1B which would harmfully erode the occupiers' privacy when using the garden.
15. The appellant has suggested that they would be willing to subdivide the two gardens to create a larger garden at No 1B and install a taller fence to reduce the overlooking that would occur. However, I have not been provided with plans that identify how this could be achieved. Furthermore, the Planning Practice Guidance¹ states that conditions cannot require that land is formally given up (or ceded) to other parties. As such a condition could not be used to secure this.
16. The layout of surrounding development means there is intervisibility between the rear of houses and their gardens. Hence, there is generally overlooking of the gardens from other dwellings, including No 1's. However, the rear elevations of the houses behind are a significant distance from the proposed patio area, so would retain a similar level of privacy as existing. The separation distances between the patio area and the gardens to these dwellings would also ensure that any additional overlooking from the proposal would not be detrimental to the privacy of the surrounding occupiers, so their living conditions would not be harmed.
17. The appeal property is built setback from the front elevation of No 1B and extends beyond its rear elevation. The first floor of No 1B has a bedroom that extends the full depth of the house. It is also served by windows at the front and rear, the outlook from which supplements the other. From the rear window there is clear outlook over the houses to the rear but given the size of the gap between the two properties, No 1 does not harmfully enclose that outlook.
18. The ground floor of No 1B includes an open plan living space with kitchen, living and dining areas. The rear façade is served by a large area of glazing that extends across most of the width of that room. Given the gap between the two houses, No 1 does not harmfully enclose the outlook from this rear shared living space or from the rear garden. There are also storage and utility rooms next to the garage at No 1.
19. The SPD illustrates that for house extensions, the 45-degree line is a helpful measure for considering whether development would cause a loss of daylight to a window. The Council state that the horizontal line for several windows within No 1B would be breached but the vertical line would not.

¹ Paragraph: 005 Reference ID: 21a-005-20190723

20. The rear elevation of No 1 extends beyond that of No 1B. The proposed two storey side extension would bring the flank wall of No 1 closer to No 1B, but the gap that would remain between the two properties would still be moderately sized and this aspect of the proposal would not extend a significant distance beyond No 1B's first-floor bedroom window. This would ensure the resultant property would not harmfully enclose the outlook from this window or reduce the amount of light entering the room.
21. Given the layout of No 1B's ground floor, there would be limited visibility of the proposal. When standing closer to its large area of glazing, there would be visibility of the proposed two storey extension, but only from an acute angle. It is the single storey rear extension that would be more apparent but given its limited height and the setback from the shared boundary, it would not appear imposing or harm outlook from this room. For these reasons, the amount of light that would reach this room would not be harmfully reduced.
22. Whilst the extension would bring the two-storey flank wall of No 1 closer to the storage and utility rooms, their limited size and use means the occupiers are unlikely to spend significant periods of time there. As such, the effect would not be harmful to their living conditions.
23. Turning to outlook from No 1B's garden the current view towards No 1 is of its existing two storey flank wall. The proposal would bring this closer, but a moderately sized gap would be retained between it and the shared boundary, which tapers to increase toward the rear. This would ensure that the two-storey extension would not create a 'tunnelling effect' between the two properties or appear overbearing when viewed from No 1B's rear garden.
24. Likewise, despite the changes in ground level between the two properties, the height of the single storey extension would be limited, and it would be some distance further from the shared boundary. This would ensure it would not appear overbearing from No 1B's garden. The proposed high-level window within the flank wall of this extension would also ensure the occupiers would not overlook the neighbouring garden when using that room.
25. Despite my findings in relation to outlook from No 1B, including its garden, light entering that property, and the privacy of occupiers of the other surrounding dwellings, the proposed development would have a significantly detrimental effect upon the living conditions of the occupiers of No 1B regarding the privacy of its garden. Consequently, the proposal would not accord with Policy CS2 of the CS, saved Policies EV/1 and H/17 of the LP, emerging Policy DS5 of the Draft LP and the SPD. It would also not accord with the Framework and the National Design Guide. These expect, amongst other matters, to ensure proposed development should provide reasonable space between buildings in order to minimise overlooking. New development should also protect the amenity of people who live or work nearby.

Other Matters

26. The proposed extension would create a larger dwelling to accommodate the appellant's growing family. However, it has not been demonstrated that the proposed scheme and the identified harm it would cause would be the only scheme that could achieve this benefit.

27. I note the appellant's comments and concerns with the Council's handling of the planning application. However, in reaching my decision I have been concerned only with the planning merits of the case. Furthermore, I have been provided with a copy of the application notification letter and responses received from consultees including the Parish Council. Accordingly, there is no substantive evidence before me to suggest that the Council did not undertake notification of the application.

Conclusion

28. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Thus, for the reasons given, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR