



Appeal Decision

Site visit made on 4 March 2024

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 JUNE 2024

Appeal Ref: APP/W2465/D/23/3334344

1 Hutton Place, LEICESTER, LE4 5FB

- 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 Biswas against the decision of Leicester City Council.
- The application Ref is 20231442.
- The development proposed is proposed conservatory.

Decision

1. The appeal is allowed and planning permission is granted for proposed conservatory at 1 Hutton Place, LEICESTER, LE4 5FB in accordance with the terms of the application, Ref 20231442, subject to the conditions set out below:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan, block plan, proposed elevations all dated 24 July 2023.

Main Issues

2. The main issues are:
 - (1) The effect of the extension on the living conditions of adjoining occupiers at No 15 Wolsey Island Way, with particular regard to outlook and daylight and (2) whether the scheme would provide appropriate living conditions for future occupiers, with particular regard to the provision of garden space.

Reasons

Living conditions of adjoining occupiers

3. No 1 Hutton Place is an end of terrace property. The appeal scheme would add a single storey conservatory style extension to its rear elevation. The attached dwelling is No 15 Wolsey Island Way and the two properties have a common boundary. The footprint of the addition would increase the rear projection of the dwelling and cover the full width of the existing rear elevation at ground floor. It would be close to the existing garden wall with the road and also the shared boundary with No 15. Nonetheless, the amount of the addition that would be visible above the boundary treatments would be limited. It would slope away from the boundaries which would serve to lessen its impact. In this regard it would not appear unduly dominant or overbearing when viewed from the adjoining dwelling.
4. The Council is concerned about loss of daylight to the adjoining dwelling. This is expressed through the fact that the scheme would breach a 45 degree

guideline. This guideline is set out in Appendix G to the Leicester City Council SPD: Residential Amenity (SPD). However, this is expressed as a guideline and as such I consider that it is also important to consider if exceeding the 3m reference in the SPD would in fact lead to undue loss of daylight or excessive overshadowing.

5. The extension would be set away from the boundary and positioned to the south and west of No 15. In addition the amount of the extension that would exceed the height of the existing boundary treatment would be limited. If all these factors are taken together, I consider that if there were to be loss of light to the kitchen window of No 15 it would be negligible and not excessive. In this regard whilst I note the technical conflict with the SPD, I do not consider the actual harms arising should be a barrier to the scheme.
6. I therefore conclude that the proposal would not harm the living conditions of adjoining occupiers at No 15 Wolsey Island Way, with particular regard to outlook and daylight. It would not be in conflict with Core Strategy (CS) policy CS03, saved policy PS10 of the City of Leicester Local Plan (LP) and the SPD in so far as they seek to protect the amenity of existing residents.

Living conditions of existing occupiers

7. The property currently has an enclosed garden area to the rear. The Council report notes that the existing garden area is below the recommended garden area set out in its SPD. The appeal scheme would reduce this further numerically. The supporting text at section 2.5 of the SPD sets out that extensions should leave sufficient garden space for general use and penetration of light and sun. It also recommends that no more than half of an existing garden should be covered by extensions.
8. I acknowledge that the area available to this dwelling was already less than the recommendation in the SPD. However, that existing position is a fact and I consider the other points are more relevant to whether the appeal scheme would be acceptable. By the Council's own calculations in its report the extension would not cover more than half of the existing garden area. The area that would remain would be regular shaped and broadly to the south and east of the dwelling. In this regard it would be usable and penetrable to light and sun. Therefore overall I consider it would be an acceptable quality and quantity.
9. I therefore conclude that the appeal scheme would provide appropriate living conditions for future occupiers, with particular regard to the provision of garden space. In this regard it would not conflict with CS policy CS03, LP policy PS10 and SPD in so far as they seek to protect the amenity of existing residents.

Conditions

10. The Council have suggested two standard conditions. I have considered these in the light of the relevant tests at paragraph 206 of the Framework. Conditions relating to commencement and plan numbers are necessary.

Conclusion

11. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board
INSPECTOR