



Appeal Decision

Site visit made on 8 July 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/L2440/D/24/3338172

65 West Avenue, Wigston, Leicestershire LE18 2FD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO').
 - The appeal is made by Mr Shailesh Dharnidhar against the decision of Oadby and Wigston Borough Council.
 - The application Ref 23/00439/HPA dated 3 November 2023 was refused by noticed dated 14 December 2023.
 - The development proposed is single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Article 3(1) and Schedule 2, Part 1, Class A of the GPDO grants planning permission for the enlargement of a dwellinghouse subject to limitations, restrictions and conditions. One limitation, at Paragraph A.4(7), states that where any owner or occupier of any adjoining premises objects to the proposed development, the local planning authority is required to assess the impact of the proposal upon the amenity of any adjoining premises.
3. The provisions of Class A do not require consideration of the development plan. Although I have had regard to the policies and guidance cited by the Council in the decision notice, as well as the National Planning Policy Framework ('the Framework'), I have done so only insofar as they are relevant to matters of amenity and to support my assessment.

Background and Main Issue

4. The main issue is whether prior approval should be granted having regard to the effect of the proposal upon the living conditions of occupiers of neighbouring residential properties with particular regard to outlook and light.

Reasons

5. The appeal property is a semi-detached property. A covered passage to the south separates it from the neighbouring house to the south (No 63), while the attached property (No 67) is located to the north. The rear gardens of further properties adjoin the eastern most extent of the rear garden.
6. The proposal would extend the property at ground floor level, to a total projection of 6 metres from the original rear elevation. It would be located on

the shared boundary with No 67 and would remain offset from the boundary with No 63. I saw that both of these neighbouring properties contained windows in ground floor rear elevations, with one at No 67 in close proximity to the shared boundary.

7. Although a flat roof would be utilised and there is mature vegetation within the garden of No 67, the proposal would nevertheless result in a large area of blank wall along this shared boundary. Given the proximity of a ground floor window at No 67 to this boundary, and the projection of the proposal, it would appear as significantly overbearing and would lead to a greater sense of enclosure than presently exists. Given the location of the appeal property to the south of No 67, and the size of the proposal, it would also result in some loss of light to the room served by this window, as well as to the rear garden of No 67, to the detriment of the living conditions of occupiers of this property.
8. With regard to No 63, the proposal would also appear as a significant structure. Although there would be greater separation between the proposal and windows at No 63 than at No 67, it would nevertheless remain visible and lead to a unacceptable sense of enclosure. However, given the orientation of the properties its effect on light would not be significant.
9. The Council raised no concerns in relation to the effect of the proposal on the occupiers of any other properties than Nos 63 and 67. Given the level of separation between the proposal and other adjoining premises, I find that it would not harm the living conditions of occupiers of them.
10. Overall, however, the proposal would cause harm to the living conditions of the occupiers of adjoining properties with particular regard to outlook and light. Insofar as is relevant, the proposal would conflict with Policy 6 of the Oadby and Wigston Local Plan ('OWLP'), which amongst other matters states that new development should protect local amenity. Paragraph 135 of the Framework states that developments should have a high standard of amenity for existing and future users. Although the Council has also made reference to OWLP Policy 44, this policy relates to the effects of proposals upon landscape and character and I have not been directed to any specific wording within it in relation to the main issue.
11. It is also of note that the Council's view that in the case of both Nos 63 and 67, the 45-degree code contained within the Oadby and Wigston Residential Development Supplementary Planning Guidance document would be breached is not disputed by the appellant.

Other Matters

12. I acknowledge that no representations in relation to the proposal were made by the occupiers Nos 63 or 67, and that the requirement for prior approval was instead triggered by representations from other adjoining properties. However, Paragraph A.4(7) of the GPDO is clear in requiring assessment of the impact of the proposal upon the amenity of any adjoining premises. Such assessment is not restricted only to those where objections have been raised and I have carried out my assessment accordingly.

Conclusion

13. For the reasons given above and having had regard to all matters raised, the proposal would not comprise development for which prior approval should be granted. I therefore conclude that the appeal should be dismissed.

C Harding

INSPECTOR