



Appeal Decision

Site visit made on 15 September 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 9 October 2024

Appeal Ref: APP/X2410/D/24/3347714

49 Toothill Road Loughborough LE11 1PN

- 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 Chandresh Patel against the decision of Charnwood Borough Council.
 - The application Ref is P/24/0164/2.
 - The development proposed is Erection of single storey side/rear extension to dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - The character and appearance of the host dwelling and the surrounding area
 - Living conditions for occupiers of the host dwelling, and for occupiers of 51Toothill Road.

Procedural Matter

3. There are some discrepancies in the description of development. I have used that appearing on the decision notice.

Reasons

Character and appearance

4. The appeal site (No.49) is a large family house within a stepped terrace of three storey houses. No.49 lies within the Church Gate Conservation Area (CGCA) close to its north-eastern perimeter at the corner of Toothill Road and Howard Street. As with neighbouring properties No.49 has a rear two-storey outrigger providing two main rooms at each level in addition to the two principal rooms in the main, terraced, part of the dwelling¹. The outrigger projects some 7m from the rear wall of this main block leaving a narrow strip of yard as the very restricted north-westerly outlook from the dining (second) room. This arrangement at the rear of the property is mirrored in No.51 Toothill Road (No.51) each side of an intervening separating wall, which is roughly of standing eye height.

¹ Both the host dwelling and its neighbours 47 & 51 have a single storey extension attached to the end of the outrigger

5. What is proposed would create a large living room-kitchen infilling the full width of the plot. It would incorporate the side yard space also replacing the single storey extension at the rear and the host dwelling's part of a lightweight roof structure which spans between² the rear wings of these neighbouring dwellings. Built of small timber and translucent plastic, the oversailing plastic sheet roof covers the yard area of both No.49 and No.51 above the existing boundary wall, sloping down from beneath the first floor windows. Whilst the nature and condition of the roofing material tends to reduce penetration of daylight to the spaces below, both houses currently benefit in that regard, due to the limited height of the separating wall not obstructing access to light from the oversailing roof.
6. Noting the comments of the Council's Natural and Built Environment Team and given what currently exists, there would be little detriment to the character and appearance of the area from the construction of this single storey extension if appropriate materials are used. Although the Council suggest what is proposed would be discordant with the host dwelling, the rear areas of No.49 and neighbouring properties have a variety of ancillary structures (including the roofed over space) which visually clutter these rear amenity areas but do not intrude upon the street scene. What is proposed would not detract from the overall built form of the housing block and its primary built elements at roof and first floor level and would amount to a limited change visible only in the immediate area which would not harm the character and appearance of the area.
7. I therefore conclude, noting the duty set out in Section 72 (1) Planning (Listed Buildings and Conservation Areas) Act 1990, that the proposal would cause no significant harm to the character and appearance of the CGCA or host dwelling and that, in consequence, there would be no conflict with Policies CS2 of the Charnwood Local Plan Core Strategy (2015) (Core Strategy) or with saved Policies EV/1 and H/17 of the Borough of Charnwood Local Plan (BCLP) which together seek high quality design that is compatible with the locality.

Living Conditions

8. My observations³, which include viewing from the interior of No.51, underline the poor access to daylight currently enjoyed by users of the middle habitable rooms in these houses, particularly the dining room of No.51. The proposal would address this problem for the appellant such that the dining/second inner room would be indirectly lit by several rooflights. Overall, the proposal would enhance current living conditions for No.49 by opening out the existing accommodation and providing improved access to daylight from the rear and through rooflights in the main living areas.
9. However, the drawings submitted neither show the existing relationship of the appeal site with its neighbour nor how the proposed infill would relate to what currently exists beyond the boundary with No.51. The lightweight roof which currently spans between the outriggers to No.49 and No.51⁴ would need to be curtailed or adapted in a way which has not been addressed in the proposal. Whilst this would be a matter dealt with by other legislation⁵, the proposal would introduce a 10m length of wall along the shared boundary at a height of around 2.6m, which

² But propped at each side of the boundary wall

³ At around 3.00 pm.

⁴ Propped midway at the boundary

⁵ Such as The Party Wall etc. Act 1996

is significantly higher than what is currently found at the boundary between. Surmounted by a gutter, this wall would be separated by little more than 2m from ground floor habitable room windows in the outrigger of No.51 and directly adjacent to the single window of its poorly-lit dining room. This would, by its height, length and proximity, oppressively enclose the neighbouring narrow amenity space and interfere significantly with the limited access to daylight currently available to occupiers of two main habitable rooms.

10. The appellant appears to suggest that because daylight available to the dining room and kitchen window of No.51 is impaired by surrounding structure and orientation, the changes would be of no consequence. That, however, would be to ignore the translucent nature of the oversailing roof and that it currently allows daylight from above to be available to the yard areas of both properties across the intervening boundary wall which is significantly lower than the side wall of the extension proposed. In addition, although the outlook from these windows is of an unattractive covered outdoor area, nevertheless that outlook gives access to daylight for the combined width of the yard areas. The extension would significantly curtail both access to daylight and outlook from these main rooms of No.51 to an extent which would be oppressive due to its proximity, height and uninterrupted length.
11. Consequently, although the proposal would likely improve the living conditions to the occupiers of the host dwelling I have nothing before me to persuade that this enhancement would not be to the significant detriment of the occupiers of No.51 in the way I have explained by the introduction of a much higher wall than currently exists at the boundary. I have considered whether the proposal could be made acceptable in planning terms by the application of suitable conditions but it is the height and extent of the proposed wall at the boundary which is unacceptable and it is unlikely that conditions could be devised which would not introduce uncertainty and therefore fail the test of precision required by the NPPF.
12. The proposal would conflict with saved Policies EV/1 (vii) and H/17 (iii) of the BCLP which seek to protect the amenity of adjoining users including access to daylight and this is a matter which, in the circumstances described should attract significant weight. Such being not outweighed by my conclusion upon the first main issue or the benefits to living conditions of the appellant, the proposal conflicts with the development plan as a whole and in consequence, taking all matters raised into account, the appeal cannot succeed.

Andrew Boughton

INSPECTOR