



Appeal Decision

Site visit made on 9 July 2024 by J Reed MPlan

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/N4720/D/24/3342764

29 Tinshill Road, LEEDS, LS16 7DR

- 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 John & Mrs Lucy Carr against the decision of Leeds City Council.
 - The application Ref is 24/00626/FU.
 - The development proposed is raising the roof height of existing bungalow with two storey front and rear extension; single storey rear extension; replace existing single garage with double garage with a pitched roof.
-

Procedural Matter

1. The appellant has indicated within the Grounds of Appeal that an error in the drafting of the plans was made at the time of the submission of the planning application, with a window included in the southern elevation which was not also shown on the corresponding floor plans. This was also noted by the Council in the assessment set out in the Delegation Report. Subsequently, this is a matter which has been addressed by the appellant during the course of the planning appeal with the submission of a revised elevation drawing (*Ref. 3652 03 Rev. A*) showing the removal of the window.
2. The acceptance of revised plans must be considered in the context of the principles of the judgement in *Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]*. The 'Wheatcroft Judgement' is essentially premised upon whether a development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
3. I have also had regard to the advice set out in the '*Procedural Guide – Planning Appeals – England*'. The Procedural Guide advises that if an amendment to an application proposal would be likely to overcome a reason for refusal, then this should normally be made by a fresh application. The appeal process should not be used to evolve a scheme and what is considered at the appeal should essentially be what was considered at the application stage.
4. In this instance, the effect of the revised plan would, at first sight, be to overcome a reason for refusal related to the impact of the development on the living conditions of the neighbouring occupier. However, rather than seeking to evolve the scheme, I am satisfied that the revised plan looks to resolve a discrepancy in the original submission, a matter which the Council were clearly aware of from their assessment in the Delegation Report and consideration of the consequences of either retaining or removing the window from the proposal.

5. With the principles of the judgement in mind, the acceptance of the revised plan would not result in a change to the description of the development. I am however mindful that the procedural constraints of a Householder Appeal prevent the Council from having a further opportunity to formally comment on the revised plan. Nevertheless, the previous identification of the discrepancy and the effects of the removal of the window in the Delegation Report, demonstrate that the Council have grappled with the issues at hand.
6. I am therefore satisfied that it would neither be prejudicial to the Council, nor the occupiers of the neighbouring property, to assess and determine the appeal based on the revised plan.

Decision

7. The appeal is allowed and planning permission is granted for the raising of the roof height of existing bungalow with a two storey front and rear extension; single storey rear extension; replace existing single garage with double garage with a pitched roof at 29 Tinshill Road, Leeds, LS16 7DR in accordance with the terms of the application, Ref 24/00626/FU, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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:

Site Location Plan/Red Line/OS Plan, Proposed floor plan(s) 02, Proposed elevation(s) 03 Rev. A, Proposed Elevations, Floor Plans 04 and Block Plan/Layout Plan 05.
 - 3) The garage hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 29 Tinshill Road.
 - 4) The extensions hereby permitted shall not be occupied until the windows at first floor level, as indicated on the *Proposed Side Elevation (North)* on Drawing No. 3652 03 Rev. A, have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

Appeal Procedure

8. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for costs

9. An application for costs was made by Mr & Mrs John & Lucy Carr against Leeds City Council. This application will be the subject of a separate Decision.

Main Issues

10. The main issues are;

- The effect of the proposal on the character and appearance of the area, and the host property; and,
- The effect of the development on the living conditions of the occupants of No. 31 Tinshill Road and the appeal property, having regard respectively to privacy, and light.

Reasons for the Recommendation

Character and appearance

11. The appeal site is situated on Tinshill Road, a mainly residential street, but also accommodating some commercial properties. Tinshill Road generally possesses a consistent building line, albeit that the appeal site is set back in comparison to the rest of the street.
12. The appeal property is a bungalow with front and rear gardens, with a modest sized box dormer serving the southern elevation, and is clad in white render. Several nearby properties are also bungalows, and dwellings in the wider area utilise a mixture of different materials and are set over either one or two stories. The dwelling incorporates a single flat roof detached garage situated to the front of the appeal site, in line with the adjacent properties either side.
13. The proposed raising of the roof height of the dwelling by 1.6 metres and changing the roof from a hipped roof design to a gable on all four elevations, would be viewed in the context of the wide range of different property types and hip and gable roof forms in Tinshill Road. Notably both the neighbouring Nos.27 and 31 Tinshill Road possess gable roofs. As a result, whilst I accept that the proposals include a change to the roof form this is regarded as being in keeping with the character of the area and would present a cohesive resultant design.
14. As part of the changes to the roof, the removal of the existing flat roof dormer to the southern elevation is proposed. This would overall represent a positive change with the replacement of a design element of the existing property which neither enhances its design nor the areas character.
15. The proposed two storey front gable extension and open porch would appear subservient as it would sit below the proposed raised ridge height. It would result in a more symmetrical appearance to the principal elevation to the appeal dwelling which I am satisfied would not appear incongruous as other properties on Tinshill Road also possess similar gable features. The proposal would therefore draw on design elements that are characteristic within the area.
16. To the rear a similarly scaled two storey addition is proposed which would sit in place of the existing single storey rear gable element. This however would also still be read as subservient as it would sit below the ridge of the main roof and would only occupy part of the rear elevation. This would be a modest addition which respects the design of the existing dwelling and would be appropriately clad in render.
17. The proposed demolition of the existing garage, which although small in scale sits in a prominent position at the front of the appeal site, would remove a structure not of a design or condition which contributes positively to the character of the area. The proposed replacement double garage whilst larger in

scale and massing than the existing garage would still be read as subservient to the resultant dwelling. This is further reinforced by the sites sloping topography when the site is viewed from the highway and the more elevated position of the dwelling. Furthermore, the proposed pitched roof design would mirror the front gable form proposed to the appeal dwelling resulting in positive design symmetry.

18. For the reasons as set out, the proposed alterations to the appeal property and proposed detached garage would not lead to harm to the character and appearance of the host property nor the surrounding area and as a result satisfies the requirements of policy P10 of the Leeds Core Strategy (2019) and policies GP5 and BD6 of the saved Unitary Development Plan Review (2006) which mutually seek to ensure new development is appropriate within its locality.

Living conditions

19. The Council identified in the Notice of Decision that the inclusion of a window in the southern elevation facing towards No.31 Tinshill Road would result in an adverse effect on the privacy of the neighbouring occupiers. I have already addressed the acceptance of a revised plan removing the window earlier in this decision. I am therefore satisfied that the consequence of this action would be to remove any unacceptable overlooking of No.31 and the safeguarding of their privacy and living conditions.
20. I have also had regard to the concerns of the Council regarding the impact on the availability of natural light to the users of Bedroom 3 due to the removal of the first-floor window. there would not be sufficient natural light to bedroom three. However, the bedroom is served by 2 reasonably sized rooflights which, based on the evidence before me, I am satisfied would provide adequate natural light for occupiers of the room.
21. For the reasons as set out, there would not be harm to the living conditions and privacy of no.31 Tinshill Road, or with regards the availability of natural light for occupiers of the appeal property. The proposed development would therefore accord with the requirements of policy P10 of the Leeds Core Strategy (2019) and policy GP5 of the saved Unitary Development Plan Review (2006) which seek to protect the amenity, privacy and living conditions of neighbours and occupiers.

Other Matters

22. Concerns were raised by interested parties regarding the effect of the proposed development on the trees located to the rear of the appeal site. However, the proposed development would not conflict directly with the trees, and I am not persuaded that this would be a matter that would need to be addressed by condition in connection with any permission.
23. The Council have also raised concerns regarding the amount of hardstanding proposed and how this would conflict with the Householder Design Guide. However, whilst I accept that the amount of hardstanding serving the garage would increase this would still only occupy part of the large expansive front garden with a large amount of landscaping still provided. As a result, this would not alter my conclusions.

Conditions

24. In addition to conditions related to the timeliness of the development and the identification of plans, a condition requiring the use of obscure glazing for first floor windows on the Northern elevation would be reasonable and necessary in order to safeguard the living conditions of the neighbouring property. Furthermore, a condition tying the use of the garage to ancillary to the main property would also be in the interests of the living conditions of the occupiers of the property.

Conclusion and Recommendation

25. For the reasons given above the appeal should be allowed.

J Reed

APPEAL PLANNING OFFICER

Inspector's Decision

26. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed, subject to the conditions as listed.

Martin Seaton

INSPECTOR