



Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 18th April 2013

Subject: 13/00011/FU – Two storey side extension at 28 Penlands Crescent, LS15 9DQ

APPLICANT

Mr James Marshall

DATE VALID

2nd January 2013

TARGET DATE

27th February 2013

Electoral Wards Affected:

Temple Newsam

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: REFUSE PERMISSION for the following reason:

The Local Planning Authority considers that the proposed extension would, by reason of its close proximity to existing trees, adversely affect the future health of these trees and prevent the trees growing to maturity. It is considered that these trees, that are subject to a Tree Preservation Order, are of a significant amenity value enhancing the character and visual amenities of the area. As such the proposal will have a detrimental impact on the general visual amenity of the area contrary to Policies GP5 and LD1 of the Leeds Unitary Development Plan and advice contained within 'Guideline Distances from Development to Trees'.

1.0 INTRODUCTION

1.1 This application is brought to Panel at the request of Councillor Judith Cummins for the impact on the trees to be assessed.

2.0 PROPOSAL

2.1 The applicant seeks permission to create a two storey side extension with a pitched roof. This will measure approximately 3.3m in width, 5.5m in depth and its gabled roof will align with the house eaves and be set down a little from the ridge. An additional entrance door is proposed to the front with a window above. Patio doors

are proposed to the rear giving access into the rear garden, also with a window above.

2.0 SITE AND SURROUNDINGS:

3.1 The application relates to a detached, two storey brick built dwelling set toward the head of a residential cul-de-sac. The property has a gabled, concrete tiled roof. The surrounding area is residential and there are a mix of detached, semi-detached and terraced properties of a similar size and scale. The property is set back from the street behind an open front garden.

3.2 There is a blanket TPO which covers the estate and there are four large oak trees which lie offsite within the garden of 7 Burr Tree Garth. These are remnants of the old field boundaries before the estate was constructed and have significant amenity value within the wider locality.

4.0 RELEVANT PLANNING HISTORY:

4.1 12/01949/FU Two storey front extension, new first floor window to side
Withdrawn

H32/284/83 Laying out of 778 houses – **Approved**. Permitted development rights for extensions were removed by condition.

H32/35/91/ Alterations and extension to form bedroom and toilet, to side of detached bungalow.
Approved

4.2 Area TPO 6/84. This TPO was made at the time of the development approved under H32/284/83. This TPO includes the oak trees that are affected by the current development proposal.

5.0 HISTORY OF NEGOTIATIONS:

5.1 None

6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by neighbour notification letter.

6.2 An objection has been received from 26 Penlands Crescent who raise concerns regarding disruption during the construction process and potential damage to property.

7.0 CONSULTATIONS RESPONSES:

7.1 Landscape officers raise significant concerns regarding the impact of the extension upon the protected trees, noting that the application fails to comply with the recommended distances that an extension should be located from an oak tree. Concern is therefore raised about the impact during construction and the later pressure to prune, lop or fell the trees.

8.0 PLANNING POLICIES:

- 8.1 The development plan is the adopted Leeds Unitary Development Plan (Review 2006).
- 8.2 The Publication Draft of the Core Strategy was issued for public consultation on 28th February 2012 and the consultation period closed on 12th April 2012. The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. On 14th November 2012 Full Council resolved to approve the Publication Draft Core Strategy and the sustainability report for the purpose of submission to the Secretary of State for independent examination pursuant to Section 20 of the Planning and Compulsory Purchase Act 2004. Full Council also resolved on 14th November 2012 that a further period for representation be provided on pre-submission changes and any further representations received be submitted to the Secretary of State at the time the Publication Draft Core Strategy is submitted for independent examination.
- 8.3 As the Council have resolved to move the Publication Draft Core Strategy to the next stage of independent examination some weight can now be attached to the document and its contents recognising that the weight to be attached may be limited by outstanding representations which have been made which will be considered at the future examination.
- 8.4 UDP Policies:

GP5 Refers to proposals resolving detailed planning considerations (access, landscaping, design etc), seeking to avoid problems of environmental intrusion, loss of amenity, danger to health or life, pollution and highway congestion and to maximise highway safety.

BD6 All alterations and extensions should respect the scale, form, detailing and materials of the original building.

LD1 Any landscape scheme should normally:

- i. Reflect the scale and form of adjacent development and the character of the area;
- ii. Complement and avoid detracting from views, skylines and landmarks;
- iii. Provide suitable access for people with disabilities;
- iv. Provide visual interest at street level and as seen from surrounding buildings;
- v. Protect existing vegetation, including shrubs, hedges and trees. Sufficient space is to be allowed around buildings to enable existing trees to be retained in a healthy condition and both existing and new trees to grow to maturity without significant adverse effect on the amenity or structural stability of the buildings;
- vi. Complement existing beneficial landscape, ecological or architectural features and help integrate them as part of the development;

- vii. Be protected, until sufficiently established, by fencing of a type appropriate to the prominence of the location, around all those parts of the landscaping susceptible to damage.

8.5 Householder Design Guide SPD:

Leeds City Council Householder Design Guide was adopted on 1st April and carries significant weight. This guide provides help for people who wish to extend or alter their property. It aims to give advice on how to design sympathetic, high quality extensions which respect their surroundings. This guide helps to put into practice the policies from the Leeds Unitary Development Plan which seeks to protect and enhance the residential environment throughout the city.

HDG1 All alterations and extensions should respect the scale, form, proportions, character and appearance of the main dwelling and the locality/ Particular attention should be paid to:

- i) The roof form and roof line;
- ii) Window detail;
- iii) Architectural features;
- iv) Boundary treatments
- v) Materials;

HDG2 All development proposals should protect the amenity of neighbours. Proposals which harm the existing residential amenity of neighbours through excessive overshadowing, overdominance or overlooking will be strongly resisted.

8.6 Guideline Distances from Development to Trees: Securing Space for Existing and New Trees

This guide was revised in March 2011 and complements the British Standard document BS5837: 2005 Trees in Relation to Construction. The document seeks to ensure that sufficient space is retained around new buildings to protect the long term health of vegetation.

8.7 National Planning Policy Framework

This document sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and strongly promotes good design.

In relation to heritage, local planning authorities are encouraged to sustain and enhance the historic environment.

9.0 **MAIN ISSUES**

- 1) Protected Trees
- 2) Design and Character
- 3) Neighbour Amenity
- 4) Representations

10.0 **APPRAISAL**

Protected Trees

- 10.1 Policy LD1 notes that “sufficient space [should] be allowed around buildings to enable existing trees to be retained in a healthy condition” and more detailed guidance is then included within the ‘Guideline Distances from Development to Trees’. As noted above there are protected offsite trees which lie beyond the side boundary of the application dwelling and the extension which is proposed will bring the house significantly closer to these trees. There are therefore two main issues which need to be considered, the impact of the construction process upon the root systems of the trees and also the subsequent pressure to prune, lop or fell the trees due to the increased proximity of the house. It is this pressure for future pruning which causes the most concern.
- 10.2 The landscape officer has raised significant concerns regarding the impact of the extension upon the health and longevity of the protected trees. Concern is raised regarding the construction process and the impact of foundations, however it is acknowledged that with an appropriate foundation and careful site management it may be possible to prevent long term damage. The main issue is the impact of bringing the house closer to these trees. As is outlined within the ‘Guideline Distances from Development to Trees’ document, a minimum distance of 12.0m should be retained between the side wall of an extension and an Oak tree. The extension which is proposed would retain approximately 1.6m which is significantly beneath this recommended distance. The extension would be brought beneath the canopy of two of the trees and its front and rear windows would look out onto the canopies of the other two trees. This would lead to significant pressure to prune, lop or fell the trees to allow a reasonable amount of light to these rooms as well as outlook from them. It should also be noted that there is existing conflict between the application property and these trees and permission was sought in 2012 to carry out pruning works. The extended house would sit closer to these trees and thus this degree of conflict would be increased.
- 10.3 The applicant has pointed out that the document of the council is guidance and that it is possible to reduce these distances in certain circumstances. Attention is also drawn to the fact that the existing relationship is substandard, that a side extension was approved in 1991 and that there are situations where development has been allowed close to trees. Whilst it is acknowledged that the existing relationship of the house to the trees is not ideal (and indeed it is this proximity which has led to the existing pressure to prune) this is not a strong reason for worsening the relationship and further increasing this pressure to prune. The presence of other substandard developments across Leeds is also not a justification for allowing a substantially poor relationship in this instance, and whilst the previous approval is a material consideration, the significant changes to policy which have occurred in the intervening 22 years mean that this can be given very limited weight. The application must be assessed against the current policies and guidance of the council. Whilst the guidance is a flexible document, and does allow the recommended distances to be reduced, or indeed increased, where situations allow, this application is not a marginal case where a rigid application of the guide would be unreasonable. A distance of 12m is required, the extension will allow 1.6m. This is a substantially substandard relationship and will have a detrimental impact upon the long term health and vitality of the trees through increased pressure to prune, lop or fell.
- 10.4 As such the extension is not acceptable in this regard.

Design and Character

- 10.5 The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted”. Leeds Unitary Development Plan Policy GP5 states that “development proposals should seek to resolve detailed planning considerations including design” and should seek to avoid “loss of amenity. Leeds Unitary Development Plan Policy BD6 states that “all alterations and extensions should respect the form and detailing of the original building”. This advice is elucidated and expanded within the Householder Design Guide.
- 10.6 The extension which is proposed raises no significant concerns in respect of design. Its size, scale and proportions are appropriate and it will not overdominate nor overwhelm the existing house. The extension has also been set back from the front elevation and its dropped ridge means it appears as a subordinate, secondary addition. As such it complies with the advice of the Householder Design Guide and is considered to be an in-keeping addition.

Neighbour Amenity

- 10.7 Policy GP5 (UDPR) notes that extensions should protect amenity and this advice expanded further in policy HDG2 which notes that “all development proposal should protect the amenity of neighbours. Proposals which harm the existing residential amenity of neighbours through excessive overdominance, overshadowing or overlooking will be strongly resisted”.
- 10.8 The extension which is proposed does not raise significant concerns regarding overlooking. Although the two new first floor windows are sited closer to the common boundaries with 7 Burr Tree Garth and 3 Colton Croft the views which will be afforded of this site are similar to the existing views. Furthermore in the case of 7 Burr Tree Garth these will be oblique views from a secondary window, and such views are common within residential areas and are unlikely to lead to significant harm. The retention of the existing boundary treatment would prevent harmful views from the ground floor rear window. As such the extension raises no significant concern in this regard.
- 10.9 The proposal is also considered acceptable in respect of overshadowing as the extension is set to the north of the most affected neighbour and thus direct overshadowing is significantly unlikely. The bulk of the additional overshadowing will affect the applicant’s own front and rear gardens and will not harm the amenity of neighbours. The application also retains a sufficient distance from the main amenity space and main windows of the neighbours to prevent unreasonable overdominance.
- 10.10 As such the proposal is considered acceptable in this regard.

Neighbour Representations

- 10.11 All material considerations which have been raised through representations have been discussed above. The concerns of local residents regarding potential damage to property and disruption during the construction process are noted. Whilst it is always hoped that extensions will be constructed sensitively and with due regard for neighbours as the process is temporary it is not reasonable to impose conditions. Any damage to property, should it occur, is a civil matter which must be resolved by the relevant parties outside the planning process.

11.0 CONCLUSION

- 11.1 The application is therefore not considered to be acceptable. Whilst the extension is well designed and will not harm the amenity of neighbours the impact upon the protected offsite trees is not acceptable and the application is therefore recommended for refusal for the reason outlined at the head of the report.

Background Papers:

Application files 13/00011/FU
Certificate of ownership: Certificate A signed by agent