

# Public Document Pack

## **JOINT PLANS PANEL**

**TUESDAY, 31 JANUARY 2017**

Revised report – Agenda Item 12 – Consideration of Two Storey Side Extensions to Domestic Properties

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**Report of Chief Planning Officer****Report to Joint Plans Panel****Date: 31 January 2017****Subject: Consideration of Two storey Side Extensions to Domestic Properties**

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| Are specific electoral Wards affected?<br>If relevant, name(s) of Ward(s):                                                                   | <input type="checkbox"/> Yes | x No |
| Are there implications for equality and diversity and cohesion and integration?                                                              | <input type="checkbox"/> Yes | x No |
| Is the decision eligible for Call-In?                                                                                                        | <input type="checkbox"/> Yes | x No |
| Does the report contain confidential or exempt information?<br>If relevant, Access to Information Procedure Rule number:<br>Appendix number: | <input type="checkbox"/> Yes | X No |

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**Summary of main issues:**

Following the overturn of an officer recommendation to approve an application on a domestic property which included a two storey side extension, Members of South and West Plans Panel requested that a report be presented to Joint Plans Panel advising what had changed in the officers approach to such applications as Members would have expected a recommendation for refusal. This report concludes that there is no change in approach. The application was considered in the light of relevant guidance but the key determining factor was the weight placed upon other material considerations.

**Recommendations:**

Members of Joint Plans Panel note the content of the report.

## **1.0 Purpose of this report**

- 1.1 This report is brought before Members at the request of South and West Plans Panel. At the South and West Plans Panel on 25<sup>th</sup> August 2016 the abovementioned application for a part two storey, part single storey side extension and single storey rear extension at 43 Moor Flatts Avenue, Middleton was presented with an officer recommendation for approval.
- 1.2 At the meeting, Members resolved initially to defer the determination of the application and requested officers to carry out further negotiations with the applicant in respect of setting the extension in from the boundary by 1m at both ground and 1<sup>st</sup> floor. The concern expressed related partly to access to the rear garden for bins, but mainly with regard the dominance and overbearing effect upon the side facing main entrance door to the adjacent bungalow. Members of Plans Panel were concerned that Officers had brought forward a recommendation for approval of a proposal that included a two storey element, which was almost directly on the boundary with the driveway of the adjacent property at ground floor whereas previously a 1m gap had been required. Members of South and West plans Panel requested that a report be presented to Joint Plans Panel advising what had changed in the officers approach to such applications as Members would have expected a recommendation for refusal

## **2.0 Background Information**

- 2.1 At the Plans Panel Members raised concern that there had been a change in approach with regard the consideration of two storey side extensions. Officers had stated during the discussion that the approach had not changed. However, in this case other material considerations needed to be considered. However, as part of this debate a request was made by Cllr P Gruen through the Chair of the Panel that a report be presented to Joint Plans Panel exploring the issue to provide clarity to Plans Panel Members when considering applications for two storey side extensions to domestic properties in the future. Ultimately the Officer recommendation to approve the application was overturned and the application was refused by Panel for the following reason in summary:

‘the proposal is considered to be an overly intrusive form of development which will be significantly detrimental to the living conditions of the occupants of the said dwelling as a result of dominance, overshadowing and loss of light’
- 2.2 The Policy/Guidance for considering such applications adopted by the council has not changed. For completeness a summary of the policy context is provided at appendix A.
- 2.3 The key difference with regard how officers considered the application at Moor Flatts Avenue, which Members identified as ‘a change in approach’ concerns the consideration and the weight attached to ‘other material considerations’ specific to this site. In particular the interpretation of Guidance provided in the

householder design guide in view of the fall-back position enjoyed by the applicant by virtue of the amendments made to the General Permitted Development Order in 2013 and the outcome of a recent appeal for a proposal at 71 Church Lane, Methley (APP/N4720/D14/2229083) that had similarities to the application at 43 Moor Flatts Avenue in Middleton. These considerations specific to the site are set out below:

### **3.0 Main issues**

#### **3.1 Householder Design Guide Considerations**

- 3.1.1 To help members understanding of the issue, and to clarify why Officers recommended approval of the application, it is worth considering the guidance provided in the Householder Design Guide and how it was interpreted by officers, and the 'fall-back position' with regard Permitted Development as well as the site specific circumstances.
- 3.1.2 In the introduction to the Householder Design Guide the scope and aim of the guidance is made clear. The aim of the guidance is to assist anyone who wishes to extend their home whether or not they require planning permission to do so. It sets out general principles which should be considered when designing an extension as well as giving advice on particular types of extensions and alterations. The guide seeks to achieve good design and protect the amenity of neighbours. Every site is unique and this means that the scope for development may well vary depending upon the surroundings. This document provides guidance on what will usually be acceptable and should not be seen as a rule book which can be applied everywhere. In addition the guide which is adopted as a Supplementary Planning Document within the Leeds Local Development Framework is intended to be used as a working document for Development Management Purposes.
- 3.1.3 With regards Two Storey Side Extensions the Householder Design Guide states that:

‘two storey extensions can easily erode the character of an area as they often take up all or most of the space to the side of a house and bring the building close to its neighbour. In a street of regular, semi-detached dwellings at least a 1m gap should be maintained to the side boundary:
- 3.1.4 The key consideration in the aforementioned paragraph is the reference to ‘regular semi-detached dwellings’. The intention here is to prevent what is described as the creation of a terracing effect if a row of similar dwellings, the character of which is defined by the spaces the driveways create, should all have similar extensions.
- 3.1.5 Members of Plans Panels will have considered applications for two storey side extensions proposed to be built up to the boundary of a property that mirrors its design, where officers were concerned that terracing effect would be created. In such cases officers would recommend refusal of the application.

- 3.1.6 In the case of the Moor Flatts Avenue proposal the adjacent property was a bungalow. It was considered therefore as it was significantly lower by virtue of its design, an argument could not be sustained that a terracing effect existed in relation to its neighbour because it has a different context to the rest of the row of semi-detached houses on the street by virtue of the significant difference in height.

### **3.2 Methley Appeal Decision**

- 3.2.1 The stance mentioned above had been supported in a recent appeal decision referred to at the Panel. In the appeal decision for a two storey side extension at 71 Church Lane, Methley (APP/N4720/D14/2229083) the proposal had been designed with 0.75m gap between the proposed extension and a neighbouring property (built up to the boundary). Officers had said that this was insufficient and should be increased to 1.0m and a reason for refusal was advanced on this basis. The Inspector noted that the section of the street was characterised by pairs of semi-detached houses arranged regularly along a similar building line with relatively narrow drives creating modest gaps between them (as exists on the majority of the properties on Moor Flatts Avenue). However, as the appeal property stood at the end of a row semi-detached pairs of houses, beyond which there were 2 detached houses with ridges running at right angles to the road, the Inspector saw this slightly different context with regard to the change in house types as sufficient to conclude that there was break in the street scene that would not lead to a terracing effect. This was in reference to the roof designs not necessarily the 0.75m gap. He went on to say that because of the atypical context of this particular semi-detached dwelling he did not consider that in this particular case there would be serious harm to the street scene and no material conflict with the objectives of the underlying policies and guidance.
- 3.2.2 It was considered that the significant difference in height between the application property and the adjacent bungalow and also that in the case of this application a 2.5m gap is maintained between the properties by virtue of the drive serving the bungalow the proposal at Moor Flatts Avenue could also be seen as sufficiently different in context with regard to the change in house types as to conclude that there was a break in the street scene that would not lead to a terracing effect.

### **3.3 Fall-back Position**

- 3.3.1 Another consideration that Members should be aware of is that the Householder Design Guide refers to the requirement for retention of 1.0m to the side boundary for single storey as well as two storey extensions. For ground floor side extensions the guidance states that 'adequate space is maintained to allow access to the rear' but this is caveated by the following 'where this is not possible space should be provided for wheelie bins to the front of the property but these will need to be screened and not obtrusive'. So this also is not an absolute. In addition, a single storey side extension on its own located up to the boundary in most cases is 'permitted development' and therefore can be built without the

submission or consideration of a formal Planning Application. Officers had therefore taken into consideration what could be constructed under the applicants Permitted Development Rights as a legitimate fall-back position. Members should note that for a fall-back position to be given weight there has to be a reasonable expectation that it would be built. In this instance, following discussions with the agent, it was clear that the applicants would be likely to implement their permitted development rights by constructing a single storey element to the side of the property up to the boundary with the adjacent neighbour for the full depth of the property should planning permission for the application before members not be forthcoming. So in view of this it was considered that this factor should be given some weight in the overall appraisal as it was considered a legitimate 'Fall-back Position'.

### **3.4 Moor Flatts Avenue Appeal Decision**

- 3.4.1 Subsequent to the refusal of the application the applicant submitted an appeal against the decision. The Inspectors decision was received on the 19<sup>th</sup> of January 2017. The appeal was dismissed. Approval granted subject to conditions.
- 3.4.2 The Inspector in his report identified the main issue for consideration to be the effect of the proposed development on the living conditions of the occupiers of 45 Moor Flatts Avenue (adjacent bungalow) with particular regard to any effect of dominance, and/or overshadowing and loss of light (caused by the two story element of the extension). This was consistent with the reason for refusal.
- 3.4.3 The Inspector concluded however, the appeal proposal would not give rise to unacceptable effects to the living conditions of the occupiers of 45 Moor Flatts Avenue. In coming to that conclusion the Inspector stated that he had taken into account the comments that there are no two storey extensions in the street. However, he did not find the proposed development to be unacceptable in this regard due to its size, its stepped design and the use of hipped and pitched roofs, nor out of scale with other dwellings in the street.
- 3.4.4 The Inspector also noted that an area for bin storage would be provided to the front of the property. In addition he considered the comments regarding the development of the extension in close proximity to the common boundary and regarding a restrictive covenant and noted the concern regarding the potential damage to the neighbouring property during construction. However, concluded this point that there is no substantive evidence that the appeal proposal would give rise to such damage which would be in any event, covered under separate legal rights.

## **4.0 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 This report is presented for information and therefore consultation has not been necessary.

## **4.2 Equality and Diversity / Cohesion and Integration**

**4.2.1** There are no Equality and Diversity / Cohesion and Integration issues.

## **4.3 Council policies and City Priorities**

**4.3.1** The effective and expedient determination of planning applications contributes to the overall prosperity of the City and plays a key part in the regeneration and growth agenda.

## **4.4 Resources and value for money**

**4.4.1** No identified issues.

## **4.5 Legal Implications, Access to Information and Call In**

**4.5.1** No identified issues.

## **4.6 Risk Management**

**4.6.1** There are no risks identified in this report.

## **5.0 Conclusions**

**5.1** In conclusion nothing has changed in terms of how applications of this type are considered. However, with regard this particular application, officers concluded on balance, in view of the guidance provided by the Householder Design Guide, and the other material considerations which included site specific circumstances, a recent appeal decision for a similar proposal and the legitimate Permitted Development fall-back position, that the application should be recommended for approval. At appeal on this occasion the weight attributed by officers to the 'other material considerations' in the original recommendation for approval was in essence supported by the Inspector.

## **6.0 Recommendations**

**6.1** Members are recommended to note the report.

## **7.0 Background documents<sup>1</sup>**

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<sup>1</sup> <sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

## **Appendix A**

### **Policy Context**

#### Development Plan

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds comprises the Adopted Core Strategy (November 2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

#### Core Strategy Policies

P10 - Design and Amenity

P12 - Landscape

T1&T2 - Accessibility and transport provision for development.

#### Relevant Saved UDP Policies

GP5 – General planning considerations

BD5 – General amenity issues.

BD6 requires all alterations and extensions to respect the scale, form, detailing and materials of the original building

#### Supplementary Design Guide

##### Neighbourhoods for Living SPG

##### Householder Design Guide Supplementary Planning Document:

The guide gives advice on how to achieve high quality design for extensions and additions to existing properties, in a sympathetic manner that respects the spatial context. The following policies are relevant to this application.

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

- the roof form and roof line,
- window details,
- architectural features,
- boundary treatments
- materials

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

#### National Planning Policy

The National Planning Policy Framework (NPPF), published on 27<sup>th</sup> March 2012, and the National Planning Practice Guidance (NPPG), published March 2014, replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.

The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions. The following parts of the NPPF have been considered in the consideration of this application:

7. Requiring good design.

## Appendix B: Original Report to Plans Panel of 22<sup>nd</sup> September 2016



**Leeds**  
CITY COUNCIL

Originator: Andrew Perkins

Tel: 0113 2478019

**Report of the Chief Planning Officer**

**SOUTH AND WEST PLANS PANEL**

**Date: 22<sup>nd</sup> September 2016**

**Subject: Application 16/01656/FU: Part two storey, part single storey side extension and single storey rear extension at 43 Moor Flatts Avenue, Middleton, LS10 3SS.**

**APPLICANT**

Mrs C Wilby

**DATE VALID**

14<sup>th</sup> March 2016

**TARGET DATE**

26<sup>th</sup> September 2016

**Electoral Wards Affected:**

**Middleton Park**

☒ Yes

Ward Members consulted  
referred to in report)

**Specific Implications For:**

Equality and Diversity

☐

Community Cohesion

☐

Narrowing the Gap

☐

**RECOMMENDATION: GRANT PERMISSION subject to the specified conditions:**

1. Time Limit on Permission.
2. Plans to be approved.
3. Matching materials
4. Obscure glazing in the first floor side window
5. Retention of boundary treatment
6. The extended drive shall be constructed at the same gradient as existing

### **1.0 INTRODUCTION:**

- 1.1 This planning application was presented at Plans Panel South and West on 25<sup>th</sup> August 2016 with an officer recommendation for approval.

- 1.2 At the 25<sup>th</sup> August Panel meeting, Members resolved to defer the determination of the application and requested officers to carry out further negotiations with the applicant in respect of setting the extension in from the boundary by 1m at both ground and 1<sup>st</sup> floor. The concern expressed related to access to the rear garden for bins, but mainly with regard the dominance and overbearing effect upon the main entrance door to the adjacent bungalow. This door would face directly on to the extension as proposed. At the Plans Panel Members raised concern that there had been a change in approach with regard the consideration of two storey side extensions. Officers had stated that the approach had not changed. However, in this case other material considerations needed to be considered. There was significant amount of debate with regard this issue and Plans Panel requested that the application was to be reported back to Plans Panel for determination.
- 1.3 It is also noted that since the last Plans Panel meeting on 25<sup>th</sup> August 2016, Cllr Kim Groves has requested to withdraw her objection to the scheme.
- 1.4 Officers have met with the applicant and their planning representative to review the details of the development proposal in light of Members' discussions at the Plans Panel meeting. The applicant has stated that a reduction of 1m set in to the ground floor side extension would not be feasible as it would not provide the desired accommodation at the ground floor. Accordingly the applicant has requested that the application be determined on the basis of the plans presented to the August Panel. The previous report, appropriately updated, is set out below for Members information. The recommendation from officers remains to grant permission subject to specified conditions.
- 1.5 To help members consideration of the application and to clarify why Officers maintain the original recommendation. It is worth considering the guidance provided in the householder design Guide and how it has been interpreted by officers, and the 'fall-back position' with regard Permitted Development.
- 1.6 The Householder Design Guide does state that two storey extensions can easily erode the character of an area as they often take up all or most of the space to the side of a house and bring the building close to its neighbour. In a street of regular, semi-detached dwellings at least a 1m gap should be maintained to the side boundary. The key consideration in the aforementioned paragraph is the reference to 'regular semi-detached dwellings'. The intention here is to prevent what is described as the creation of a terracing effect if a row of similar dwellings, character of which is defined by the spaces the driveways create, should all have similar extensions. In this case the adjacent property is a bungalow. Therefore as it is significantly lower because of its design, it could not be argued that a terracing effect exists in relation to its neighbour because it has a slightly different context to the rest of the row of semi-detached house on the street and is located directly next to a bungalow which creates a variation in the street scene and would not be seen to create any impact in regard to terracing.
- 1.7 This particular stance has been supported in a recent appeal decision referred to at the last Panel in the appeal decision for a two storey side extension at 71 Church Lane, Methley (APP/N4720/D14/2229083). In this case the proposal had

been designed with 0.75m gap between the proposed extension and a neighbouring property (built up to the boundary). Officers had said that this was insufficient and should be increased to 1.0m. The Inspector noted that the section of the street was characterised by pairs of semi-detached houses arranged regularly along a similar building line with relatively narrow drives creating modest gaps between them. However, as the appeal property stood at the end of a row semi-detached pairs of houses, beyond which there were 2 detached houses with ridges running at right angles to the road, he saw this slightly different context with regard to the change in house types as sufficient to conclude that there was break in the street scene that would not lead to a terracing effect. This was in reference to the roof designs not necessarily the 0.75m gap. He went on to say that because of the atypical context of this particular semi-detached dwelling he did not consider that in this particular case there would be serious harm to the street scene and no material conflict with the objectives of the underlying policies and guidance. It should be noted also that in the case of this application a 2.5m gap is maintained between the properties by virtue of the drive serving the bungalow.

- 1.8 Members should also be aware that the Householder design guide does refer to the requirement for retention of 1.0m to the side boundary for both single storey and two storey extensions. For ground floor side extensions the guidance states that 'adequate space is maintained to allow access to the rear' but this is caveated by the following 'where this is not possible space should be provided for wheelie bins to the front of the property but these will need to be screened and not obtrusive'. The guidance relating to setting in by 1m the first floor element is primarily to retain space between buildings of similar design to avoid a terracing effect. Bearing in mind that a single storey side extension on its own located up to the boundary in most cases is 'permitted development' (see paragraph 1.8 below) pragmatic interpretation of both elements of advice combined with appeal decision has led to applications such as the one before members to day being considered acceptable.
- 1.9 In addition to the aforementioned officers have taken into consideration what could be constructed under the applicants Permitted Development Rights as a legitimate fall-back position. The applicant would be able to construct the single storey element to the side of the property up to the boundary with the adjacent neighbour for the full depth of the property. Therefore presenting a blank wall along the neighbours drive way, facing the neighbour's doorway as proposed by the application with no access to the rear externally at ground floor. The applicant would also be able to construct the single storey rear extension across the full width of the property under their Permitted Development Rights.
- 1.10 Therefore officers have concluded on balance in view of the guidance provided by the Householder Design Guide, site specific circumstances, a recent appeal decision and the Permitted Development fall-back position, that the application be recommended for approval.

## **2.0 PROPOSAL:**

- 2.1 The applicant seeks planning permission for a part two storey, part single storey side extension and single storey rear extension. The proposal will create a TV

room, utility, enlarged open plan kitchen and dining room at ground floor level and the extension will enlarge the existing accommodation at first floor level.

- The ground floor side element will project 2.5m in width and 7.6m in depth
- The first floor side element is set back from the front elevation by 1m and as such will measure 6.7m in depth
- The two storey element will have a hipped roof which measures 5.22m to the eaves and 7.08m to the ridge
- The single storey element will have a hipped roof which measures 2.9m to the eaves and 3.66m to the ridge
- The single storey rear extension will measure 8.5m in width, project 2.69m in depth and have a hipped roof which measures 2.42m eaves height and 3.68m

### **3.0 SITE AND SURROUNDINGS:**

- 3.1 The application site relates to a relatively plain and simple semi-detached, brick built dwelling with concrete tiled hipped roof. The property is set back and set down slightly from the highway with a modest driveway to the side which runs down to meet a single garage. There is a noticeable gradient on the site, as such the rear garden area is on a lower level to that of the host and is accessed via an area of timber decking. The rear garden area has a total length of approximately 12.5m which is bounded by a 1.8m high timber fence and hedging. The host's rear garden joins the rear gardens serving Middleton Park Road.
- 3.2 The area is residential in nature; the dwellings in the immediate streetscene and surrounding area are a mix of semi-detached dwellings and semi-detached bungalows. It is noted that the host dwelling forms part of a pair of two storey dwellings on Moor Flatts Avenue after which, the house type changes to bungalows at the head of the cul de sac. The adjacent neighbouring dwelling at No.45 Moor Flatts Avenue is a bungalow and is located on a slightly higher land level.

### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 H21/18/81/ - Approved  
Addition of car port to side and rear of semi-detached house.

### **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 See section 1.0 above and paragraph 10.2 below.

### **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application has been advertised by Neighbour Notification Letter. The neighbour notification letters were posted out on 29<sup>th</sup> March 2016 and 12<sup>th</sup> May 2016 following receipt of revised plans. The publicity period expired on 19<sup>th</sup> March 2016. Two letters of objection has been received in relation to the application from

the neighbour at No.45 Cross Flatts Avenue. The first letter relates to the original plans submitted; the neighbour raises concerns regarding;

- The plans submitted do not show the relationship with their property
- Loss of light and overshadowing especially in the kitchen
- Loss of privacy due to the new utility room window looking into kitchen
- Development is out of scale with other properties in the area
- There are no two storey extensions in the streetscene
- Concerns that the extension builds right up to the boundary
- Damage to the neighbours drive and foundations during construction
- Lack of access to rear bin storage area
- Reference to a restrictive covenant relating to the host property

The second letter relates to the revised plans received; the neighbour raises concerns regarding;

- The extension will be 9ft from their kitchen (only entrance door)
- Smaller extension would still obstruct light into the property and cause overshadowing
- Smaller development still out of scale and will harm the character of a small cul de sac
- Remain concerned about damage to their drive and foundations during construction
- Such an imposing extension would impact on their quality of life

6.2 Cllr Paul Truswell, Cllr Judith Blake and Cllr Kim Groves raise concerns that the precedence would be set for the building of such extensions in this street.

6.3 It is noted that the applicant's partner has submitted a letter supporting the application.

## **7.0 CONSULTATION RESPONSES:**

7.1 None

## **8.0 PLANNING POLICIES:**

### Development Plan

8.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for Leeds comprises the Adopted Core Strategy (November 2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013).

### Core Strategy Policies

P10 - Design and Amenity

P12 - Landscape  
T1&T2 Accessibility and transport provision for development.

Relevant Saved UDP Policies

GP5 – General planning considerations

BD5 – General amenity issues.

BD6 requires all alterations and extensions to respect the scale, form, detailing and materials of the original building

Supplementary Design Guide

Neighbourhoods for Living SPG

Householder Design Guide Supplementary Planning Document:

The guide gives advice on how to achieve high quality design for extensions and additions to existing properties, in a sympathetic manner that respects the spatial context. The following policies are relevant to this application.

HDG1: all alterations and extensions to respect the scale, form, proportions and the 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 details,
- 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, over-dominance or overlooking will be strongly resisted.

National Planning Policy

- 8.3 The National Planning Policy Framework (NPPF), published on 27<sup>th</sup> March 2012, and the National Planning Practice Guidance (NPPG), published March 2014, replaces previous Planning Policy Guidance/Statements in setting out the Government's planning policies for England and how these are expected to be applied. One of the key principles at the heart of the Framework is a presumption in favour of Sustainable Development.
- 8.4 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

- 8.5 The NPPF must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions. The following parts of the NPPF have been considered in the consideration of this application:

7. Requiring good design

## **9.0 MAIN ISSUES:**

- Design and Character
- Fallback Position
- Residential Amenity
- Highway Safety/Accessibility
- Bin Storage
- Representations

## **10.0 APPRAISAL:**

### Design & Character

- 10.1 The Leeds Core Strategy includes a number of policies appropriate to design which are relevant. Policy P10 outlines a number of key principles which fall under the wider objective of ensuring new development delivers high quality inclusive design. Saved Unitary Development Plan policy GP5 looks to protect amenity (including visual amenity) and saved UDP policy BD6 aims to ensure that “alterations and extensions should respect the scale, form, detailing and materials of the original building”. The Council’s Householder Design Guide Supplementary Planning Document (SPD) includes a number of policies and detailed guidance for domestic extensions which are relevant to the proposal.
- 10.2 Originally the applicant sought consent for a larger part two storey, part single storey side extension. The original extension included a two storey side extension with a width of 2.5m and depth of just over 7m running along the common boundary shared with the adjacent neighbour at No.45 Moor Flatts Avenue. This amount of solid massing along the boundary was considered unreasonably dominant and building right up to the boundary at two storey level was considered harmful to the character of the host dwelling and could not be supported. As such, amendments were requested in order to provide more relief between the first floor extension and the boundary shared with the adjacent neighbouring dwelling resulting in the first floor element being set in by 1m.
- 10.3 Following receipt of revised plans, the part two storey, part single storey side and rear extension is now considered acceptable in terms of design and character. It is acknowledged that the two storey side extension does add a degree of additional bulk and the adjacent neighbouring bungalow is of smaller scale and form. However, the first floor extension has been reduced in width and is now offset from the common boundary shared with the adjacent neighbour at No.45 Moor Flatts Avenue by 1m. The first floor element of the side extension is set back from the front elevation by 1m, and set down adequately from the main roof ridge. Furthermore the extension will use matching materials, fenestration and detailing. As such, the amended two storey side extension does comply with the guidance

contained within the Householder Design Guide and will be read as a subservient addition. The single storey rear extension is also considered acceptable in terms of design and character. The extension is of modest proportions with a mono-pitched roof. The extension is located to the rear of the property and will replace an existing flat roof extension.

- 10.4 It is acknowledged that the neighbour at No.45 Moor Flatts Avenue has raised concerns regarding the development being out of scale with other properties in the area and that there are no two storey extensions in the immediate streetscene. However, it would be unreasonable to hold a strong objection to the proposal on these grounds as every application is treated on its own merits. There are some examples of side extensions within the surrounding area and in this instance the proposal represents an acceptable addition which sufficiently respects the character of the existing property and wider streetscene and meets the wider aims of Core Strategy policy P10, saved UDP policies GP5 and BD6, HDG1 of the Householder Design Guide SPD, and the guidance contained within the National Planning Policy Framework in these respects.

#### Fallback Position

- 10.5 It is noted that the applicant does have a permitted development fallback position; the applicant could build a single storey side extension and also a single storey rear extension without the need for planning permission under 'permitted development' provided that the extension does not wrap around the corner of the property. Therefore, a lot of the massing associated with the proposal could be built without the need for planning permission and the principle of a single storey side and rear extension cannot be disputed. The parts that do require permission would therefore be the first floor element, and the link between the corner and the side.
- 10.6 Members should note that for a fall-back position to be given weight there has to be a reasonable expectation that it would be built. In this instance, following discussions with the agent, it is clear that the applicants would be likely to implement their permitted development rights should planning permission for the application before members not be forthcoming. It is considered therefore that this factor should be given some weight in the overall appraisal.

#### Residential Amenity

- 10.7 Leeds Core Strategy policy P10 aims to protect general and residential amenity. Saved UDP policy GP5 aims to protect amenity including the amenity of future occupants and policy BD5 states:

'All new buildings should be designed with consideration given to both their own amenity and that of their surroundings. This should include usable space, privacy and satisfactory penetration of daylight and sunlight.' Policy GP5 notes that "extensions should protect amenity and this includes the loss of privacy through overlooking, overdominance and overshadowing". The Council's Neighborhood's for Living SPG looks to ensure development proposals provide a good level of amenity for future occupiers. Paragraph 17 of the NPPF requires local planning

authorities to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

- 10.8 With regard to these considerations, the proposal is considered acceptable. The adjacent bungalow at No.45 Moor Flatts Avenue is of a smaller scale and form and it is acknowledged that the occupiers of this property have raised concerns regarding the close proximity of the extension to their kitchen (and only entrance door) and how the plans submitted do not include their property. However, this detail is not required as part of the 'validation criteria' and the spatial relationship between the neighbouring properties is assessed during the officer site visit. As noted above, there is a noticeable gradient between the host property and the adjacent bungalow; as a result the host property is located on a lower level and it is also noted that the bungalow features two windows to this side serving a bathroom and kitchen, it is also noted that the kitchen is served by two windows one to the front and one to the side.
- 10.9 It is acknowledged that the proposal will add a degree of additional bulk and massing. However, this is not considered harmful to neighbouring amenity space as the bulk of the proposal will be located over the hosts existing driveway which runs parallel to the neighbour's driveway rather than their private garden space. The change in land levels and 1m offset from the boundary will help mitigate the additional massing proposed. Therefore, the proposal is not considered harmful in terms of overdominance of neighbouring amenity space.
- 10.10 It is noted that the adjacent neighbour has raised concerns regarding overshadowing and loss of light to principal windows. However, the bulk of the extension will be confined within the hosts western side elevation therefore any additional shadow cast will be limited to later in the day and will fall over the host's front garden area rather than neighbouring windows or amenity space.
- 10.11 With regards to overlooking, the windows in the front elevation will look out in the direction of the highway rather than neighbouring amenity space. The windows in the rear elevation will look out over the hosts own garden area rather than neighbouring private amenity space. The new first floor window opening in the western side elevation will serve a bathroom and could be obscure glazed to prevent any loss of privacy. The ground floor window serving the utility room is a high level window with very limited outlook which would be offered additional screening by the existing boundary treatment. If members are minded to approve the application, a condition should be attached requiring the use of obscure glazing in the first floor side window.
- 10.12 Overall, the proposals are not expected to create a harmful increase in overshadowing of neighbouring private amenity space or principal windows. As such, the application is considered to be acceptable in terms of privacy, loss of light and overshadowing and is considered to be in keeping with the wider aims of UDP policies GP5 and Householder Design Guide policy HDG2.

#### Highway Safety

- 10.13 The proposal does not prevent two cars from parking off-street on site. Whilst the proposal will build over part of the hosts existing driveway, using the proposed

block plan submitted, the applicant is intending to create a second off street parking space to the front. It should also be noted that the proposed increase in width to the drive way would reduce the length of kerb available for visitor parking directly in front of the property on street. However, the remaining length is still sufficient to park a vehicle without obstructing driveways. As such, the proposal is considered to protect highway safety and is considered to be in keeping with the wider aims of adopted Core Strategy policy T2.

### Bin Storage

- 10.14 The proposed extension will involve building over part of the hosts existing driveway and restricting access from the rear of the property to the front. Since the last Panel meeting on 25<sup>th</sup> August 2016 the agent has provided a revised block plan showing the proposed bin store which would be located in front of the extension and to the side boundary of number 45 Moor Flatts Avenue.

### Representations

- 10.15 It is acknowledged that the adjacent neighbour at No.45 Moor Flatts Avenue has objected to both the original and revised plans. All material planning matters raised by way of representation are discussed above. Concerns regarding structural damage to the neighbours driveway and foundations during construction are covered separately by Building Regulations. Comments in relation to a restrictive covenant relating to the host property are a legal matter and should be dealt with outside of the planning process.

## **11.0 CONCLUSION**

- 11.1 The scheme is considered to comply with both National and Local planning policy regarding householder development. The proposal would create additional living accommodation for an existing family dwelling and the development does not lead to harm to neighbouring amenity in terms of outlook, privacy, over-dominance or create any significant highway safety concerns. Amendments have been requested in order to achieve a more sensitive design which is in keeping with the character of the host dwelling and wider streetscene. In addition an additional condition has been added to ensure that the proposed extension to the width of the driveway is constructed to the same gradient as the existing driveway. There are not considered to be any material planning reasons to resist a part two storey, part single storey side extension and single storey rear extension at this property.
- 11.2 Overall, the application is considered acceptable in planning terms and does accord with the aims of the relevant local and national planning policy and as such is recommended for approval subject to conditions.

### **Background Papers:**

Application files 16/01656/FU

Certificate of ownership: signed by applicant



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## Appeal Decision

Site visit made on 19 December 2016

**by Philip Lewis BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 January 2017**

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**Appeal Ref: APP/N4720/D/16/3160170**

**43 Moor Flatts Avenue, Middleton, Leeds LS10 3SS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs C Wilby against the decision of Leeds City Council.
  - The application Ref 16/01656/FU, dated 12 March 2016, was refused by notice dated 23 September 2016.
  - The development proposed was originally described as proposed 2 storey side extension, single storey rear extension, demolition of detached garage to rear garden.
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### Decision

1. The appeal is allowed and planning permission is granted for a part two storey, part single storey side extension and single storey rear extension at 43 Moor Flatts Avenue, Middleton, Leeds LS10 3SS in accordance with the terms of the application, Ref 16/01656/FU, dated 12 March 2016, subject to the attached schedule of conditions.

### Procedural matter

2. I have taken the description of development from the Council's decision notice for my decision above as it more succinctly describes the development than that set out on the application form.

### Main Issue

3. The main issue for the appeal is the effect of the proposed development on the living conditions of the occupiers of 45 Moor Flatts Avenue with particular regard to any effect of dominance, and/or overshadowing and loss of light.

### Reasons

4. The appeal relates to 43 Moor Flatts Avenue, which is a two storey, semi-detached dwelling with a hipped roof. To one side of the appeal property is situated 45 Moor Flatts Avenue which is a semi-detached

bungalow. I saw at my site visit that both Nos 43 and 45 are set in from the common boundary which is marked by a close boarded timber fence with the dwellings separated by their respective driveways. I noted at my site visit that a garage at the appeal property has been demolished.

5. The appeal scheme involves side and rear extensions. The side extension would extend out to the site boundary and would be stepped, so that the two storey element which would have a hipped roof would be set back from the site boundary and the front of the dwelling. The rear extension would be single storey with a mono pitched roof.
6. During my site visit I viewed the appeal site from No 45. I observed that the kitchen of No 45 has a window to the front facing the street and a door and window to the side, facing towards the flank wall of the appeal property. The appeal proposal would give rise to a single storey flank wall close to the common boundary with No 45 which would project appreciably to the rear of the dwelling, with the two storey element set back above, which would extend across most of the flank wall of the existing dwelling. Whilst there would be an increase in the mass of the appeal property, due to the setting back of the two storey element and the use of hipped and pitched roofs, the overall mass of the extensions would be broken. Additionally, the driveway of No 45 provides a separation gap between the bungalow and the proposed development. Consequently, I do not consider that the appeal scheme would give rise to dominating effects for the occupiers of no 45.
7. In respect of overshadowing and loss of light, I have taken into consideration the position, size and orientation of Nos 43 and 45, and the position of the windows and door in the flank wall of no 45. I find that there would not be an unacceptable increase in overshadowing as a result of the proposal nor an unacceptable loss of light to the kitchen of No 45, which is also served by the window to the front.
8. The appeal scheme includes two windows in the flank wall, a high level window serving a ground floor utility room and a bathroom window on the first floor. If I were minded to allow the appeal, I could impose a condition requiring the windows to be glazed in obscure glass in order to safeguard privacy of the occupiers of No 45 and of the appeal property.
9. The appeal proposal would not give rise to unacceptable effects to the living conditions of the occupiers of 45 Moor Flatts Avenue and does not conflict with saved Policy GP5 of the Leeds Unitary Development Plan which includes that proposals should seek to avoid loss of amenity. Additionally, the proposal does not conflict with the National Planning Policy Framework which in paragraph 17 includes that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings, or HDG2 of the Leeds Local Development Framework Householder Design Guide Supplementary Planning Document 2012 which is concerned with protecting the amenity of neighbours.

## **Other matters**

10. I have taken into account the comments that there are no two storey extensions in the street. However, I do not find the proposed development to be unacceptable in this regard due to its size, its stepped design and the use of hipped and pitched roofs, nor out of scale with other dwellings in the street.
11. In respect of car parking, I note that the proposal would make provision for two off street parking spaces, and whilst the widened driveway may have an effect on the availability of on-street parking and the character and appearance of the area, I have not been convinced that such effects would be significantly harmful. Additionally, I note that an area for bin storage would be provided to the front of the property.
12. I have considered the comments regarding the development of the extension in close proximity to the common boundary and regarding a restrictive covenant and note the concern regarding damage to the neighbouring property during construction. However, there is not substantive evidence that the appeal proposal would give rise to such damage which would be in any event, covered under separate legal rights.

## **Conditions**

13. I have imposed conditions in respect of timescale and specifying the approved plans as that provides certainty. I have specified a condition that the external surfaces of the extension shall match those used in the existing building in the interests of the character and appearance of the area. I have imposed conditions in respect of obscure glazing for the windows and removing permitted development rights for additional windows in the west elevation of the dwelling in order to safeguard the living conditions of neighbours.

## **Conclusion**

14. For the reasons given above and having considered all matters raised, I conclude that the appeal should be allowed.

*Philip Lewis*

INSPECTOR

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