
Appeal Decision

Site visit made on 6 September 2016

by L Fleming BSc (Hons) MRTPI

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

Decision date: 5th October 2016

Appeal Ref: APP/P3040/W/16/3153355

Plot 3, 8 Station Road, East Leake LE12 6LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr James Poole against the decision of Rushcliffe Borough Council.
 - The application Ref 16/00149/VAR, dated 21 January 2016, was refused by notice dated 24 May 2016.
 - The application sought planning permission for 6 two storey dwellings without complying with a condition attached to planning permission Ref 12/00656/FUL, dated 19 June 2014.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved drawings; 120125:2, 120123:3, 120125:3, 120125:1F, 120125:216 Rev D, 120125:217 Rev D, 120125:218 Rev A, 120125:316, 120125:317, 120125:318 Rev B, 120125:321 Rev A, 120125:416 Rev B, 120125:417, 120125:418 Rev B, 120125:516 Rev B, 120125:518, 120125:616 Rev B, 120125:618 Rev A, 120125:716 Rev B, 120125:718 Rev A.
 - The reasons given for the condition is: For the avoidance of doubt and to comply with policy GP2 (Design and Amenity Criteria) of the Rushcliffe Borough Non Statutory Replacement Local Plan.
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Decision

1. The appeal is dismissed.

Planning Policy

2. The development plan for the area consists of the Rushcliffe Local Plan Part 1: Core Strategy (2015) (CS) and the saved policies of the Rushcliffe Borough Local Plan (1996) (LP) and the East Leake Neighbourhood Plan (2015) (NP). No policies of the LP or the NP are relied upon by the Council. The Rushcliffe Borough Non-Statutory Replacement Local Plan (2006) (NSRLP) is not part of the development plan and I have only afforded weight to its policies insofar as they are consistent with the National Planning Policy Framework (the Framework).

Background and Main Issue

3. The application subject to this appeal effectively seeks a minor material amendment to Plot 3; a two storey detached dwelling which forms part of a wider development of six dwellings approved in 2014. At the time of my site visit, Plot 3 was not occupied but substantially complete. The approved plans show Plot 3 with a Juliette style guard rail outside a pair of French doors which
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provide a single outlook to bedroom 2 on the first floor. The amended plans show a balcony instead of the guard rail and at the time of my site visit this was already in place.

4. The main issue is the effect of the development on the living conditions of the occupants of No 6 Station Road with particular regard to privacy.

Reasons

5. The appeal property has a relatively small rear garden which adjoins the rear garden of No 6 Station Road (No 6). No 6 is a large detached dwelling set in a large plot with its rear garden extending the length of the appeal property's rear garden boundary and beyond.
6. I acknowledge the screening provided by the hedging and trees along the shared boundary and within the garden of No 6. However, on my site visit I was able to stand on the balcony and look down into a large section of the rear garden of No 6 and was also able to see a number of windows in the rear elevation of No 6, some if not all of these windows on the upper floors appeared to serve bedrooms.
7. I acknowledge that these views would be the same if the guard rail as detailed on the approved plans was in this place. I also note the balcony is relatively small. However, even though the French doors open outwards the balcony would still be wide enough to accommodate for example two small chairs and a small table. These could be folded away to allow both doors to open, or could be positioned to allow one of the doors to open with them in place.
8. The space provided by the balcony is such that it would be relatively comfortable for two people to sit and enjoy. Thus, in contrast with the guard rail the development would increase the likelihood that occupants would look out over the rear garden and towards the rear elevation windows of No 6 for more prolonged periods of time than they would if a guard rail had been installed. The presence of people for prolonged periods in this elevated position in such close proximity to the rear garden of No 6 and within clear view of bedroom windows, would in my view, be harmful to the living conditions of the occupants of No 6 with particular regard to privacy.
9. For these reasons, the development is in conflict with Policy GP2 of the NSRLP which is considered consistent with the Framework insofar as it aims to protect the living conditions of residents living nearby.

Other Matters

10. Part of the appeal site is within the East Leake Conservation Area. In accordance with the statutory duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990; I am required to have special regard to the effect of the development on the character and appearance of the area. The balcony is not visually prominent and is in keeping with the character of the host dwelling, such that I consider it has a neutral impact and therefore the character and appearance of the conservation area is preserved.

Conclusion

11. For the reasons given above and with regard to all other matters raised, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR