
Appeal Decision

Site visit made on 28 February 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 06 March 2017

Appeal Ref: APP/J3015/W/16/3161949

Land to the rear of 51a and 51b Mill Road, Newthorpe, Nottingham NG16 3QG.

- 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 Mr Mark Copeland against the decision of Broxtowe Borough Council.
 - The application Ref 16/00464/FUL, dated 27 June 2016, was refused by notice dated 13 October 2016.
 - The development proposed is the construction of a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the request of the planning case officer, the appellant revised the layout and elevation plans part way through the determination of the planning application. Such plans show a single storey "L" shaped bungalow with an integral garage. For the avoidance of doubt, I have determined the appeal based on the amended plans.

Main Issue

3. The main issue is the effect of the proposal upon the living conditions of the occupiers of surrounding residential properties in respect of light, privacy and outlook.

Reasons

4. The appeal site falls within an established residential area and comprises parts of the rear gardens of No 51a (a detached bungalow) and 51b (a detached two storey dwelling) Mill Road. It is proposed to erect a dwelling (i.e. a bungalow) on the site with access taken from a drive between the two host properties following demolition of a detached garage belonging to No 51b. Three car parking spaces would be provided to the front of No 51b, and existing parking arrangements at No 51a would be unaffected.
 5. The area includes a mixture of mainly two storey and single storey residential properties which are different in terms of design. In the main, the properties have both front and rear gardens which are proportionate in size, although the garden areas of Nos 51a, 51b and 53 Mill Road are generally larger than the others. The appeal proposal comprises a form of back land development which
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would be similar to No 12 Kirby Road which is to the north of the site. Originally, No 12 Kirby Road may not have been built as a back land form of development (as per the evidence submitted by the current occupier), but nonetheless it has now such an appearance when viewed from within the wider landscape. In this context, coupled with the overall scale and massing of the proposed dwelling (as amended), I do not consider that the erection of a dwelling on this site would have a detrimental impact upon the character and appearance of the area.

6. As regards access details, I note that the Highway Authority raised no objection to the proposal (based on amended details). Subject to a widening of the access onto Mill Road, I am satisfied that the proposal would be acceptable from a highway safety and a car parking point of view.
7. The Council's refusal notice does not specify which of the properties would be affected by the appeal proposal. I have therefore considered the impact of the erection of the dwelling upon the occupiers of all of the immediately surrounding residential properties.
8. I note that land at No 11 Kirby Close is at a slightly higher level than the appeal site and that this property includes an extension to the rear elevation. I have considered the position of the property and its relationship with No 11 Kirby Close. Whilst it would be relatively close to the common boundary with such a property, a significant proportion of the rear elevation of the proposed dwelling would be built alongside the two storey blank gable elevation of No 11 Kirby Close. The remaining part of the rear elevation would be built alongside the boundary fencing between the two properties about 0.8 of a metre away.
9. Taking the above factors into account, and the overall height of the proposed development, on balance I do not consider that the dwelling would cause significant harm to the living conditions of the occupiers of this property in terms of outlook, privacy and light. I reach this conclusion based on the need to excavate a small part of the rear garden area of No 51b Mill Road in order to ensure that the height of the dwelling is kept to a minimum. Had the proposal been acceptable in all respects, I would have imposed a planning condition relating to the approval of the proposed slab and ground levels.
10. As part of my site visit, I was able to view the appeal site from No 53 Mill Road. The land level is much lower than the appeal site and hence the boundary fence sits on top of a stone wall. Consequently, the boundary treatment when viewed from No 53 Mill Road appears much higher than when viewed from the appeal site. Whilst the existing fencing would screen the side windows/doors of the proposed dwelling from No 53 Mill Road (and hence there would not be a significant loss of privacy), a considerable proportion of the proposed dwelling would nonetheless be very visible from the rear garden area (including the patio seating area) and the rear windows of No 53 Mill Road.
11. I acknowledge that the proposed development would be single storey. Given the height of the proposed building, and the position of surrounding properties, I do not consider that the proposal would lead to a material loss of light penetrating into properties (including gardens). However, the side elevation of the proposed dwelling would measure about 17 metres and would be sited approximately 2.0 metres from the boundary fence with No 53 Mill Road. Taking into account the difference in land levels, the overall length of the proposed side elevation and the height of the existing fence, I consider that the

dwelling would have a significantly overbearing impact upon the occupiers of No 53 Mill Road, particularly when viewed from the garden area and the ground floor kitchen, lounge and conservatory windows. In this case, I do not consider that it would be appropriate to impose a planning condition which required the erection of a higher boundary fence, as that would also have dominating and enclosing impact upon the occupiers of No 53 Mill Road.

12. For the reasons outlined above, and subject to the imposition of a number of planning conditions, the proposal would not have a significantly adverse impact upon the living conditions of the occupiers of the two host properties or No 11 Kirby Road in respect of light, outlook and privacy. However, whilst the proposal would not result in a material loss of light or privacy for the occupiers of No 53 Mill Road, it would have a significantly detrimental impact upon the occupiers of this property in terms of loss of outlook. Therefore, and for this reason, I conclude that the proposal would not accord with the amenity aims of saved Policy H7 of the Broxtowe Local Plan 2004 (LP) and Policy 10 of the Broxtowe Aligned Core Strategy 2014.

Other Matters

13. I have taken into account representations made by other interested parties. Some of the comments made have already been addressed in the reasoning above.
14. I acknowledge that representations have also been made by occupiers of properties on Walker Street, but these properties are some distance from the appeal site. Based on the layout, scale and appearance details (as amended), I am satisfied, subject to the erection of appropriate boundary treatment to subdivide the existing residential plots, that the single storey dwelling would be a sufficient distance away from No 51a and No 51b Mill Road so as to not cause significant harm in respect of matters of light, outlook and privacy.
15. I consider that the resultant garden sizes for the appeal property and No 51b Mill Road would be adequate. No 51a Mill Road has been extended since the planning application was determined and it now includes a single storey rear extension across the full width of the house (there were once two conservatories on the rear elevation). The effect of this development is that the rear garden area for No 51a Mill Road would be smaller than shown on the submitted plans at about 10 metres in length. On balance, I consider that the garden area for No 51a Mill Road would be just about on the margins of acceptability and given the relatively low height of the proposed dwelling (i.e. single storey) and the "L" shaped layout, coupled with the potential to erect new boundary screening (to be secured by planning condition), I do not consider that there would be a material loss of outlook, privacy or light for the occupiers of the facing two properties.
16. Whilst there may be some disturbance during construction stage, this would be relatively short lived. Had the proposal been acceptable in all respects, a planning condition could have been imposed to deal with this matter. I note the comments made about the effect of the proposal upon protected species (including bats), but I do not have any specific evidence to indicate that material harm would be caused to wildlife/nature conservation interests.
17. Whilst the site is not specifically allocated for housing, I am not aware of any Council policies which would preclude the erection of dwellings on windfall sites

(including green field sites) such as the appeal site. Saved Policy H7 of the LP does not prohibit the erection of dwellings on non-allocated sites.

18. I note the evolution of this scheme and acknowledge comments made by the Planning Committee indicating that the site "*was suitable for development*". I accept that it might be possible to erect a dwelling on this site without harm being caused to the living conditions of the occupiers of surrounding residential properties. However, it has been necessary for me to determine the appeal that is before me and for the reason outlined above the proposal would not be acceptable.
19. None of the other matters raised outweigh my overall conclusion on the main issue.

Conclusion

20. For the reason outlined above, and taking into account all other matters raised, I conclude that the proposal would not accord with the development plan for the area. Therefore, the appeal should be dismissed.

Daniel Hartley

INSPECTOR