
Appeal Decision

Site visit made on 10 April 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 04 May 2017

Appeal Ref: APP/W4705/W/17/3167814

Land rear of 112 Undercliffe Road, Bradford, West Yorkshire

- 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 Mohammed Sabir against the decision of City of Bradford Metropolitan District Council.
 - The application Ref: 16/07817/FUL, dated 26 September 2016, was refused by notice dated 11 January 2017.
 - The development proposed is the construction of 6 semi-detached dwellings and 1 detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the address and description of the proposal from the Council's decision notice as it provides an accurate location and description of the development.

Main Issues

3. The main issues are the effect of the proposal on:
 - (i) the living conditions of the occupiers of 33, 35 and 37 Thornbridge Mews, with particular regard to outlook, privacy and the potential for an overbearing effect;
 - (ii) the living conditions of the occupiers of 212, 214 and 216 Idle Road, with particular regard to outlook, overshadowing and the potential for an overbearing effect;
 - (iii) the living conditions of the future occupiers of the dwellings on plots 5 and 6, with particular regard to outlook;
 - (iv) the character and appearance of the surrounding area; and
 - (v) highway safety, with particular regard to the safety of users and the efficient operation of the highway network.
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Reasons

Living conditions – 33, 35 and 37 Thornbridge Mews

4. Design Principles 2 and 3 of the Local Development Framework for Bradford Householder Supplementary Planning Document 2012 (the SPD) are of relevance to the proposal. Both Principles confirm that extensions and alterations should not cause unacceptable harm to the privacy of neighbours or over dominate, damage outlook or unacceptably reduce daylight to neighbouring properties. Guidelines with regard to distances and other factors relevant to the design of householder development are also listed.
5. The SPD acknowledges that the strict application of the guidance will not be appropriate in all circumstances. In some instances, the guidance may be less firmly adhered to or there may be circumstances where, despite compliance with the guidelines, harm would arise. Furthermore, the SPD is guidance to be used to supplement relevant policies contained within the City of Bradford Metropolitan District Council Replacement Unitary Development Plan 2005 (the RUDP).
6. In this case, there would be compliance with Design Principles 2 and 3 of the SPD for Plots 1-4. However, the proposal would result in the introduction of 16 bedroom windows in the rear elevations of plots 1 to 4, which would face 33, 35 and 37 Thornbridge Mews (hereafter referred to Nos 33-37). Moreover, the plots would also be in a slightly higher position to that of Nos 33-37.
7. A window-to-window separation distance of approximately 17 metres is indicated between plots 1 to 4 and Nos 33-37. Given the separation distances, it is not considered a significant loss of outlook or overbearing effect would be experienced. Nonetheless, due to the location and scale of the dwellings on plots 1 to 4, the occupiers of Nos 33-37 would experience a loss of privacy due to overlooking of their rear habitable windows and outdoor amenity space.
8. Policies UR3 and D1 of the RUDP when taken together seek, amongst other things, to ensure that development does not harm the amenity of existing residents. Despite compliance with the guidance contained within the SPD, the proposal would have an unacceptable effect on the living conditions of the occupiers of Nos 33-37.
9. Accordingly, the proposal fails to comply with Policies UR3 and D1 of the RUDP and would run contrary to one of the National Planning Policy Framework's (the Framework) core planning principles of seeking to a good standard of amenity for all existing occupants of land and buildings.

Living conditions – 212, 214 and 216 Idle Road

10. The proposed dwelling within plot 7 would abut the rear boundaries of 212, 214 and 216 Idle Road (hereafter referred to Nos 212-216). In addition, the dwelling would occupy a significant part of the plot and would have a substantial 2-storey blank elevation with a hipped roof facing Nos 212-216.
11. Proposed Site Sections Drawing number 16056-P-06-B confirms that the proposed dwelling on plot 7 would fulfil the requirement of the 25 degree angle test of Design Principle 3 of the SPD. This test is used when developments are opposite neighbouring windows. The centre of the lowest habitable room window is generally used as a reference point for the test. If the whole of the

proposed development falls beneath a line drawn at 25 degrees from the horizontal, then there is unlikely to be a substantial effect on daylight and sunlight.

12. Nonetheless, despite being at a distance of approximately 15 metres from the existing dwellings, the scale of the facing blank elevation would appear as an unduly imposing and overbearing feature from the rear gardens of Nos 212-216. Concern has also been raised in relation to outlook. However, given the separation distance it is not considered that a significant loss of outlook would occur.
13. Taking the above factors into account, the dwelling on plot 7 would appear imposing and overbearing to an extent that would cause demonstrable harm to the living conditions of the occupiers of Nos 212-216. It would therefore conflict with the protection of residential amenity objectives of Policies UR3 and D1 of the RUDP. It would also be at odds with one of the core planning principles of the Framework to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions – future occupiers

14. The dwellings proposed for plots 5 and 6 would each have 6 bedrooms. Both dwellings would have a bedroom in the rear attic, served by a single high level roof light. Additionally, plot 5 would have a first floor bedroom also served by a high level roof light.
15. Both plots are approximately 10.8 metres from the rear elevations of the dwellings on West Street. Accordingly, the use of roof lights would reduce the impact of the proposal on these dwellings. It is however also accepted that the use of roof lights would restrict outlook from the bedrooms. Nevertheless, the use of roof lights within these rooms would provide an adequate level of natural lighting and ventilation. Furthermore, the majority of bedrooms within both dwellings would benefit from a good level of outlook. As a result, it is not considered that the loss of outlook in these bedrooms would be so sufficient as to cause a claustrophobic effect that would be unacceptably harmful to the living conditions of the occupiers of the rooms.
16. Reference has been made to the use of attic roof lights within Bradford. No information relating to the particular circumstances of these developments and whether the circumstances are comparable to the appeal proposal has been supplied. As such, a comparison is not possible in this instance. The appeal before me has therefore been considered on its individual planning merits.
17. Accordingly, no harm to the living conditions of the future occupiers of the dwellings on plot 5 and 6, with particular regard to outlook, would occur. As such, the proposal complies with the protection of residential amenity objectives of Policies UR3 and D1 of the RUDP. The proposal would also comply with one of the Framework's core planning principles of seeking to a good standard of amenity for all existing occupants of land and buildings.

Character and appearance

18. The appeal site, having once housed garages, is a relatively open plot, despite currently being derelict and overgrown. At the time of the site visit there was evidence of some anti-social behaviour having taken place on the site. Residential dwellings, of a variety of designs, surround the site on three sides,

with two commercial premises located to the east of the site. The main access to the site is from Undercliffe Road, and there is also a public footpath adjacent to the northern boundary of the site. The surrounding area is predominantly residential in character, with a small terrace of shops close to the site. The site is unallocated in the RUDP and as such, is not protected for any other uses.

19. A similar site based at this address was granted outline planning permission for 7 dwellings in 2015¹, with all matters reserved. From the submitted evidence, the appeal site is somewhat larger than the original site due to the inclusion of an additional parcel of land located in the southeast corner of the site.
20. There is a shortage of housing supply within the borough and the appellant has stated that there is a need for housing for larger and extended families, which the Council has not contested.
21. Both parties accept that the proposed scheme is similar to the outline application, with the exception that the footprint and scale of the dwellings has increased. The principle of residential development on the site is accepted by the Council. Nonetheless, there is no doubt that the appeal site is modestly sized for the scale of development proposed.
22. The proposed dwellings would maximise the available space on the plots, with all being sited close to either the side or rear boundaries. The level of outdoor amenity space offered would be limited, particularly given number of bedrooms and likely number of occupiers. With the exception of plots 5 and 7, car parking would be to the front of the dwellings. The parking spaces would take up a substantial area of the frontages of the dwellings. As such, the hardstanding required for the parking would dominate the frontage and would appear visually harsh.
23. With particular regard to plot 7, the proposed dwelling would be positioned in close proximity to the timber fencing that would surround the appeal site. Consequently, plot 7 would appear significantly cramped and would have limited space for landscaping. The degree of outdoor amenity space proposed would also be insufficient for a dwelling of the proposed scale.
24. In coming to these findings, consideration has been given to the fact that the appellant acknowledges that the proposal represents the maximum form of development which could be constructed in the site. It is noted that planning applications for extensions could be made by future occupiers to dwellings on the site, if they were of a lesser scale within the plots. The fact that the appellant would also be willing for a planning condition to be imposed removing permitted development rights from the site has been noted.
25. Despite these considerations, the proposal before me would have an intensive appearance. The dwellings would be tightly grouped with a significant amount of outdoor space being given over to hard surfaced car parking, rather than amenity space or landscaping. As such, the proposal is an overdevelopment of the site, which represents a cramped form of development with little space for landscaping which would help assimilate the proposal into its surroundings.
26. The proposal would therefore not accord with Policies UR3 and D1 of the RUDP. When taken together these policies seek, amongst other things, to ensure that development achieves a high quality design, and respects the built

¹ Council reference 15/03354/OUT

characteristics which positively contribute to the local character and distinctiveness of the area. Regard has also been given to the requirement for good design being the key to sustainable development as set out in the Framework. However, for the reasons already set out above the proposed development would not represent good design.

Highway safety

27. Each of the proposed plots would provide 2 car parking spaces. Appendix C: Parking Standards of the RUDP states that the maximum parking standards for dwellings is an average of 1.5 spaces per unit. As such, 10.5 off-street car parking spaces are required for a proposal of 7 dwellings. From the submitted plans, the proposal would provide 14 spaces. The proposal therefore exceeds policy requirements.
28. The Council considers that due to the increased size of the proposed dwellings and numbers of bedrooms, a greater number of off-street car parking spaces are required in comparison to the outline planning application granted permission in 2015. As such, the Council contend that more than the proposed 2 car parking spaces would be required.
29. No substantive evidence has been provided by the Council with regard to the under-provision assertion. Observations made during the site visit confirmed that although Undercliffe Road was relatively busy, car parking on either side of the highway was available in proximity to the appeal site. It is appreciated that such observations provide only a snapshot at a particular time. However, as no parking restrictions were evident close to the site, there is no substantiated evidence to suggest that this is not representative of the regular parking situation.
30. Although Undercliffe Road was relatively busy, regular breaks in traffic along the road were also observed. Whilst traffic flow is likely to vary throughout the day, it was apparent that vehicles would be able to park and depart from spaces safely on Undercliffe Road, without any significant impact on traffic flow.
31. The Council's Highway Officer also commented that the proposed access road appeared cramped and consequently would present difficulty for refuse vehicles. However, the swept path on drawing 16056-P-02-B confirms that there would be sufficient space for a refuse vehicle to undertake the required manoeuvring within the site. In addition, no parking is proposed within the identified turning areas for refuse vehicles or the designated parking areas opposite plots 5 and 6.
32. Consequently, it is considered that the proposal would provide sufficient car parking, would not have an adverse impact upon the safety of users or the efficient operation of the highway network in the vicinity of the appeal site. It would not, therefore, conflict with the traffic management and road safety objectives of Policies TM2, TM12 and TM19A of the RUDP.

Planning Balance

33. It is common ground that the Council cannot demonstrate a five-year supply of deliverable housing sites. Thus paragraphs 49 and 14 of the Framework are engaged. Paragraph 49 of the Framework states that relevant policies for the

- supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
34. Accordingly, if the proposal is sustainable, planning permission can be granted so long as any adverse impacts of doing so would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
35. The proposal is in a relatively accessible location, with two bus stops on Undercliffe Road a short walk from the entrance to the site. Furthermore, services and facilities required for daily living, including two primary schools, are located within walking distance of the site.
36. The re-development of the site would improve the general outlook for the surrounding occupiers of residential dwellings. As a result of the site being occupied, the level of anti-social behaviour taking place on the site is also likely to be significantly reduced. The proposal would also make a modest contribution to the Council's five year housing supply figures. There would also be some economic benefit in supporting local services, including during the construction phase.
37. However, the impact on the character and appearance of the area set out above would introduce environmental harm. One of the aspects of the environmental role of sustainable development identified in the Framework is the protection of the built environment. This is further set out in the core planning principles, which seeks to encourage the effective use of brownfield land but at the same time seeks high quality design for future and existing occupants of land and buildings. Considerable weight should also be attributed to the harm to the living conditions of existing occupiers of nearby dwelling.
38. In this instance, despite the shortfall in 5 year housing supply and that the relevant policies for the supply of housing should not be considered up-to-date; the demonstrable adverse impacts of granting permission would significantly and demonstrably outweigh the limited benefits identified. In considering the case against the advice set out in paragraph 14 of the Framework, there is no doubt that adverse consequences would result when assessed against the Framework as a whole.

Conclusion

39. No harm with regard to highway safety or the living conditions of future occupiers has been identified. However, when taken together, the harm identified with regard to the living conditions of the occupiers of 33, 35 and 37 Thornbridge Mews and 212, 214 and 216 Idle Road and the character and appearance of the surrounding area is decisive.
40. As such, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR