

Appeal Decision

Site visit made on 9 May 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 8 June 2017

Appeal Ref: APP/P4415/W/17/3169356

47 Whitehill Lane, Brinsworth, Rotherham S60 5JR

- 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 Richard Haycox against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2016/1466, dated 1 November 2016, was refused by notice dated 21 December 2016.
 - The development proposed is the construction of new small detached bungalow in garden of host address. Land currently garden / domestic use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon:
 - The character and appearance of the surrounding area; and
 - The living conditions of occupiers of 43 and 47 Whitehill Lane, with particular regard to outlook, and to 47 Whitehill Lane, with particular regard to daylight and sunlight.

Reasons

Character and Appearance

3. From my observations of the site and its surroundings, residential properties along Whitehill Lane vary in their scale and appearance from the two storey semi-detached pair of dwellings at 43 and 47 Whitehill Lane and the adjacent two storey terraced properties, to the bungalows at Nos 39, 41 and 43. In this context, I accept that the proposed dwelling would reflect certain elements of detail evident across these nearby properties; as a bungalow it would broadly reflect the scale of the bungalows to the south at Nos 39 – 43, whilst the peaked gable elevation would reflect features found on the two storey properties to the north of the appeal site.
 4. However, I consider that the scale, massing and proportions of the proposed dwelling would nonetheless set it abruptly at odds with the larger two storey dwellings to the north. Its restricted width would give its front facing gable elevation a somewhat top-heavy appearance and vertical emphasis is not evident at No 43 or the other bungalows nearby. In comparison with the larger two storey dwellings location to the north, its limited width and height lead me to conclude that it would appear as an incongruously out of proportion dwelling
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at odds with the prevailing character of the area, failing to respond positively to either the adjacent two storey buildings or the bungalows to the south.

5. I also find that the proposal would fail to reflect the prevailing built form in terms of its siting within its plot and the space around the building. I acknowledge that No 43 is somewhat of an anomaly in respect of its siting within its plot, but it has an otherwise unobtrusive presence within Whitehill Lane and, with generous areas to the front and sides, a distinctly spacious feeling around it. So too do the bungalows at Nos 39 and 41, where extensive boundary hedging around their front and side boundaries suggests a similarly spacious setting, whilst both are relatively squat and largely screened from view behind their boundary hedges giving them an equally unobtrusive presence within the Whitehill Lane streetscene.
6. The appeal proposal would, in contrast, be dominated by hard surfacing and parking to the front with little apparent scope for the softening of this street frontage. It would be set back significantly from the site frontage which, whilst reflective of No 43, is not something I found to be particularly representative of the character or appearance of this particular stretch of Whitehill Lane. In any event, notwithstanding the set-back, the proposal would still manage to appear cramped within its site. The retention of one of the existing garages directly in front of the proposed dwelling and the lack of space around the building, particularly evident around its south facing elevation, mark the proposed dwelling out as being at odds with the prevailing built form and character of the surrounding area.
7. Thus, for the reasons set out, I conclude that the proposal would fail to successfully or effectively respond to the context, character and built form of the surrounding area secure and would fail to improve the character or quality of the surrounding. The proposal would fail to accord with policies CS6 and CS28 of the Rotherham Local Plan: Core Strategy (CS).

Living Conditions

8. The appeal site is a level and broadly rectangular site located on a steeply sloping section of Whitehill Lane. Formerly part of the side and rear garden of 47 Whitehill Lane, the appeal site sits at a materially lower level than No 47 but at a higher level than the adjacent dwelling to the south, No 43.
9. As noted above, No 43 is positioned towards the rear of its plot and significantly behind the two adjacent properties at Nos 41 or 47. The proposed dwelling, whilst also positioned towards the rear of its plot, would sit significantly and completely forward of the front of No 43. Moreover, it would only have a minimal amount of space between its southern elevation and the site's southern boundary with No 43.
10. On these grounds alone, the proposed dwelling would be likely to have a significant impact upon the field of vision and outlook from No 43. However, in this instance, that impact would be compounded by the significant difference in ground levels between the appeal site and No 43 and the scale and massing of the rear elevation of the proposed dwelling.
11. I accept that the proposed dwelling, by utilising its roofspace to provide additional accommodation at first floor level, would avoid having an excessive eaves height. However, the substantial rear gable elevation would be a clearly

visible and prominent feature in the outlook from a habitable room at the front of No 43. Furthermore, although the proposed dwelling's eaves height would be limited, it would nonetheless present a significantly long flank elevation, close to and parallel with the boundary with No 43, and in an elevated position above it, that would, in my judgement, have a dominating and overbearing impact upon the outlook from No 43.

12. I note that the Council, in assessing this matter, have applied the provisions of the Householder Design Guide: Interim Planning Guidance (IPG). In terms of outlook from habitable rooms, the IPG states that outlook will be protected for up to 10 metres on a 45° line drawn from the mid-point of the nearest habitable room window. I am advised that the proposal would fail to satisfy this test in relation to the front window at No 43.
13. However, the IPG is quite clear that it should be applied to, and offers guidance in respect of, householder extensions to domestic properties and the erection of buildings within garden areas. Moreover, the specific extracts of the IPG to which my attention has been drawn refer to proposals for two storey rear extensions, for which the impact is assessed in relation to rear windows. It is quite clear to me therefore that, whilst it may provide a useful tool for assessing potential impact, the IPG is not intended to apply to proposals for new dwellings. I therefore give its provisions limited weight in my assessment of the proposal.
14. Notwithstanding the above, however, I am satisfied from what I have seen on site and my assessment of the evidence before me, that the proposed dwelling would have a significant, and harmful, effect on the outlook from the window of a habitable room at the front of No 43. This would, I conclude, be harmful to the living conditions of occupiers of that property and would fail to secure the good standard of amenity that the National Planning Policy Framework (the Framework) seeks as one of its core planning principles¹.
15. I note that the Council have also applied the IPG in assessing the impact of the proposal upon the windows at the side and rear of No 47. However, my conclusions regarding the applicability of the IPG are as valid with regard to No 47 as they are to No 43. The key difference with regard to No 47 is that not only do garden levels at that property lie significantly above those of the appeal site, the internal ground floor level of No 47 also appears to be set several steps above its external ground level. As a consequence, that property has a relatively commanding position above the appeal site, such that I am sufficiently satisfied that the proposed dwelling would not materially or harmfully affect the outlook from No 47.
16. There is no dispute between the main parties that the proposal would not cause harm to No 43 in terms of daylight or sunlight due to the orientation of the site and No 43 relative to the path of the sun. I agree. However, the Council consider that the proposal would cause unacceptable overshadowing and loss of light to the rear of No 47.
17. As I have noted above, the existing dwelling at No 47 is set at a comfortably higher level than the appeal site. Furthermore, as the land falls away to the south and west of the rear of No 47, that property enjoys an otherwise open aspect and I am not sufficiently persuaded that any overshadowing or loss of

¹ Paragraph 17

light, if indeed it were to occur, would be so significant or materially harmful as to warrant dismissal of the appeal. However, a lack of harm in these respects is not sufficient to outweigh the harm that I have identified in terms of the overbearing and dominating impact that the proposal would have on the outlook from No 43, and the harmful effect that this would have on the living conditions of occupiers of that property.

Other Matters

18. The Council's acknowledgement that they are unable to demonstrate a deliverable five year housing land supply is not contested, nor is the site's generally positive location with regard to local services, facilities and public transport links. Within that context, the proposal would provide an additional dwelling to boost housing supply in an accessible location. However, having considered the provisions of the Framework taken as a whole I consider that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits and would fail to achieve the form of sustainable development that the Framework seeks.
19. I have been referred to other examples of purportedly similar proposals, or which are suggested to demonstrate similar site circumstances or characteristics as the proposal before me. The appellant contends that these demonstrate an inconsistent approach to the Council's application of their development plan policies and guidelines. However, I do not have the full details of these alternative proposals before me and so I cannot be certain that the circumstances are similar, including in respect of scale, location and development plan policy. Matters relating to the Council's handling of the planning application are not matters for me in dealing with the appeal, which I have, in any event, determined on its own merits.

Conclusion

20. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR