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## Appeal Decision

Site visit made on 21 June 2017

**by Beverley Doward BSc BTP MRTPI**

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

**Decision date: 28 June 2017**

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**Appeal Ref: APP/A3010/W/16/3161889**

**Land rear of 387 to 395 Gateford Road, Worksop, Nottinghamshire, S81 7BH**

- 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 S Perry against the decision of Bassetlaw District Council.
  - The application Ref 16/00709/FUL, dated 18 May 2016, was refused by notice dated 13 July 2016.
  - The development proposed is the erection of 6 terraced dwellings consisting of 4 x 2 bedroom and 2 x 3 bedroom units.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The address given in the heading above is taken from the Council's decision notice and the appeal form as this is more accurate than that detailed on the planning application form.

### Main Issues

3. The main issues in this case are the effect of the proposed development on:
  - the character and appearance of the area; and
  - the living conditions of the occupiers of neighbouring dwellings with regard to light, outlook and privacy.

### Reasons

#### *Character and appearance*

4. The appeal site is an area of land to the rear of Nos 387 - 395 Gateford Road. The evidence indicates that the appeal site previously formed part of the rear garden areas to Nos 387 - 395 although, as I saw on my site visit, it is now separated from the rear amenity space of these properties by a fence which runs along the eastern boundary of the site. The northern boundary of the site fronts onto Gateford Avenue and to the west of the site is No 1 Gateford Avenue, the end property in a terrace of houses.
5. The appeal site is located within a predominantly residential area which consists of both terraced and semi-detached houses. The dwellings on the western side of Gateford Road and those on Gateford Avenue are sited on

narrow plots with long rear gardens. However, the dwellings on Gateford Drive, which runs off Gateford Avenue at a point almost opposite the appeal site, are sited on wider plots with garages/parking spaces to the side and short rear gardens. A number of the dwellings on both sides of Gateford Road and on Gateford Avenue are served by off-street parking spaces on the frontage of the property. In my view there is no single defining characteristic of the residential area within the locality of the appeal site which comprises a mix of terraced and semi-detached houses of varying styles and sizes.

6. The proposed development would take the form of 2 terraces fronting onto Gateford Avenue each providing 2 x two bedroom houses and 1 x three bedroom house. The proposed dwellings would be constructed of traditional materials similar to those used on the immediately surrounding dwellings. They would be set further back from the back edge of the footway than the adjacent dwellings on Gateford Avenue in order to provide off-street parking spaces. However, their form and layout would not appear unduly different to that found elsewhere within the immediate locality, particularly to the east of the site along Gateford Road where the terraces are set back from the road sufficient to provide enough space for vehicles to be parked off-street within the frontage of the dwellings. The separation of the parking spaces by grassed areas would provide the opportunity for some landscaping to the front of the dwellings which would serve to soften the hard edge of the front of the development and would be likely to be no less than that which is found to the front of the existing dwellings on Gateford Avenue.
7. Whilst the proposed dwellings would be served by shorter rear gardens than those immediately adjacent to the site on the western side of Gateford Road and those on Gateford Avenue I am not persuaded that this would detract from the character or appearance of the surrounding area, given that it comprises a mix of housing types, styles and sizes. Although the proposed development would be of a higher density than the immediately adjacent development on Gateford Avenue and Gateford Road it would be comparable to that on Gateford Drive. Accordingly, the density of the proposed development would not be at odds with that of the surrounding area. Furthermore, as acknowledged by the Council, the size, type and tenure of the dwellings would be appropriate to the locality.
8. Having regard to all of the above therefore, I consider that the proposed development would not appear unduly atypical or obtrusive so as to materially harm the character and appearance of the area. Accordingly, it would accord with policy DM4 of the Bassetlaw Core Strategy and Development Management Policies DPD 2011 (the DPD) in so far as it seeks to ensure that development proposals address the matters of local character and distinctiveness and architectural quality (criteria i and ii). It would accord with policy DM5 of the DPD which seeks to ensure that development proposals deliver housing at densities that reflect the specific characteristics of the site and its surrounding area. It would also comply with the core planning principle of the National Planning Policy Framework (the Framework) to seek to secure high quality design.

#### *Living conditions*

9. The proposed dwellings would be set further back than the existing dwellings on Gateford Avenue but due to their juxtaposition and orientation this would

not cause the kitchen window of the existing dwelling at No 1 Gateford Avenue to be unduly overshadowed. Nonetheless, the proximity of the proposed dwelling on plot 1 to the existing dwelling coupled with its rearward projection would cause some loss of daylight to the kitchen window and result in the proposed dwelling appearing oppressive and over dominant when viewed from this window. In this respect the proposal would fail to comply with the 45 degree rule as set out in the Council's Successful Places Supplementary Planning Document 2013 (SPD). Whilst I note that the SPD refers to the rule specifically in relation to the impact on windows affected by a side extension I see no reason why it should not also be relevant to the consideration of a proposal for a new dwelling.

10. The siting of the dwellings in relation to the boundary of the site and the adjoining garden at No 385 Gateford Road would be such that none of the first floor rear bedroom windows of the proposed dwellings would comply with the guidance in the SPD which indicates that to reduce the effect of direct overlooking from new houses, first floor habitable room windows directly facing a rear boundary should not normally be sited closer than 10.5m to the boundary of an adjoining residential garden. Whilst I appreciate that the SPD indicates that not all circumstances are the same and that some flexibility should be applied with regard to the extent of overlooking and the relationship between houses and gardens, I am mindful that in this case the garden area to No 385 would be overlooked by an additional 6 properties. Therefore, whilst some degree of mutual overlooking is not uncommon in residential areas such as these, I consider that the degree of additional overlooking in this case would cause significant harm to the living conditions of the occupiers of No 385. Furthermore, I am not persuaded that this could be sufficiently mitigated by additional planting/screening along the boundary.
11. The appellant states that the separation distance between the main rear elevation of the existing dwellings at Nos 391 and 393 Gateford Road and the side gable of the proposed dwelling on plot 6 would comply with the guidance set out in the Council's SPD but acknowledges that the distance between the rear elevation of the outrigger on No 393 and the side gable of the proposed dwelling on plot 6 would be somewhat less than that indicated in the SPD. However, I am mindful that the window on the rear of the outrigger at No 393, as well as that on the rear of the outrigger at No 395, is obscure glazed and does not appear to serve a habitable room. In addition the proposed dwelling on plot 6 would be set about 2m away from the rear boundary of Nos 391 and 393. Accordingly, I am satisfied that it would not appear unduly oppressive when viewed from either the rear habitable room windows or rear gardens of these properties on Gateford Road. Furthermore, given that the proposed dwelling on plot 6 would be sited to the west of Nos. 391 and 393 it would not result in a loss of sunlight to the rear garden areas to these properties.
12. Having regard to all of the above therefore, I consider that overall the proposed development would cause significant harm to the living conditions of the occupiers of neighbouring dwellings with regard to light, outlook and privacy. This being so it would fail to comply with policy DM4 of the DPD in so far as it seeks to ensure that development proposals address the matter of amenity (criterion v) and states that new development should ensure that it does not have a detrimental effect of the residential amenity of nearby residents. It would also be contrary to the core planning principle of the

Framework that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

#### *Other matters*

13. The Framework sets out in paragraph 47 that to boost significantly the supply of housing, local planning authorities should be able to demonstrate a five year supply of deliverable housing sites. The Council acknowledges that it cannot demonstrate this. The appeal proposal would contribute to the supply of housing in the District by the provision of six dwellings.
14. Interested parties have raised concerns regarding the impact of the proposal on highway safety particularly given that some of the existing on-street parking provision on Gateford Avenue would be lost in order to facilitate access to the proposed parking spaces at the front of the dwellings. However, I note that the County Highway Engineer indicates that this should not have a severe or detrimental impact on the adjoining highway network. Accordingly, in the light of this and from my observations on site I am satisfied that subject to appropriate conditions the proposed development would not be detrimental to highway safety.
15. The appellant raises concerns regarding the Council's handling of the planning application. However, this is not a matter that I can comment on or consider as part of an appeal under Section 78 of the above Act.

#### **Planning Balance and Conclusion**

16. Paragraph 49 of the Framework requires housing applications to be considered in the context of the presumption in favour of sustainable development. It also indicates 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 housing sites as is the case here.
17. Paragraph 14 of the Framework sets out what the presumption in favour of sustainable development means. It indicates that for decision-taking this means where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate that development should be restricted.
18. There would be some economic and social benefits arising from the proposed development of six houses within an area where there is an acknowledged lack of a five-year supply of housing land. Accordingly this attracts moderate weight in favour of the proposal. The lack of harm to the character and appearance of the conservation area is a neutral factor. However, the proposed development would cause significant harm to the living conditions of the occupiers of neighbouring dwellings with regard to light, outlook and privacy.
19. Taking everything into account, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework as a whole. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted.

20. Overall, therefore the proposal would not represent sustainable development and would be contrary to the development plan as a whole. For these reasons, therefore I conclude that the appeal should be dismissed.

*Beverley Doward*

INSPECTOR