
Appeal Decision

Site visit made on 26 June 2017

by Chris Couper BA (Hons) DipTP MRTPI

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

Decision date: 18 July 2017

Appeal Ref: APP/H2835/W/17/3172582

Land adjacent to 86 Shelley Road, Wellingborough NN8 3DP

- 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 Tony Brookes against the decision of the Borough Council of Wellingborough.
 - The application Ref WP/16/00765/FUL, dated 8 December 2016, was refused by notice dated 9 February 2017.
 - The development proposed is the construction of a two storey detached dwelling with all associated external works.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a two storey detached dwelling with all associated external works at land adjacent to 86 Shelley Road, Wellingborough NN8 3DP in accordance with the terms of the application, Ref WP/16/00765/FUL, dated 8 December 2016, subject to the eight conditions on the attached schedule.

Application for costs

2. An application for costs was made by Mr Tony Brookes against the Borough Council of Wellingborough. This application will be the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring residential occupiers, with particular regards to the outlook from, and the availability of light to, nos. 86 and 88 Shelley Road.

Reasons

Character and appearance

4. The dwellings on this part of Shelley Road are arranged in two fairly uniform, long, staggered terraces, which are set back behind short front gardens either side of a green space with trees. That space is enclosed at its northern end by a shorter, less cohesive terrace. The terraces have pedestrian only access to the front, but there are footpaths, which are part of the highway, often leading to rear parking areas.

5. The proposed dwelling would be sited at the end of one of the long terraces on a site which tapers to the front, but which is larger than many other plots nearby. Its ridge and eaves heights, and facing materials, would match, or be similar to, the adjacent terrace. Whilst the Council notes that the dwelling's front face would be approximately 0.2m shorter than no. 86, that very slight difference would be largely imperceptible. Compared to no. 86 the dwelling would be set back slightly to the front, which would respect the staggered relationship between some other dwellings in these terraces. Although the dwelling's two storey depth would be slightly greater than no. 86, and its ridgeline would be recessed compared to that property, as its general form would be similar, those elements would not harm the area's character, and would not be generally apparent looking towards its most prominent front elevation.
6. The scheme's central first floor rear window would not reflect the regular pattern of the first floor windows in the adjacent terrace. However, that minor design difference in this location, where public views are often interrupted by buildings or landscaping, would not result in a discordant appearance.
7. Although the other properties here are arranged in terraces, given the narrow gap to no. 86, and this detached dwelling's appropriate siting, materials and general form, the scheme would be largely read as part of the adjacent terrace. There would be a gap to the terrace to the north, and a retained beech tree to the front of the site, together with any additional planting, would reflect some of the area's green and sylvan attributes. Consequently the scheme would not harm the area's character and appearance, and, as it would respond to its context and local character, it would not conflict with North Northamptonshire Joint Core Strategy 2011 – 2031 (2016) ('JCS') policy 8 part d).

Living conditions

8. The front face of no. 88 Shelley Road is separated from the appeal site by a footpath, and by that property's front and side garden which contains some tall landscaping. That landscaping, together with landscaping including the beech tree on the appeal site, causes significant overshadowing of no. 88, and limits the amount of light to its front facing windows.
9. The proposed dwelling would be off-set relative to no. 88's front face and its side wall would be some distance from that property's main habitable room windows. Given the existing context, and the scheme's scale and siting, the proposal would not cause a harmful degree of overbearance, overshadowing, or loss of light to the occupiers of no. 88. Although there would be a first floor bedroom window in the dwelling's north elevation, the outlook from there would be over the footpath towards the edge of no. 88's side garden, including its landscaping and an outbuilding, rather than into its main rear amenity space. A degree of overlooking is common in most urban areas such as this, and in that context the scheme would not cause significant harm.
10. Turning to no. 86, although the scheme would project to the rear slightly beyond that dwelling's conservatory, the main outlook from that area would continue to be down that property's short rear garden. Drawing no. A431/10C illustrates that a 45 degree line drawn from the edge of the conservatory's rear window would not be breached, and I conclude that the scheme would not have a significant overbearing impact on that room.

11. No. 86 has a ground floor, glazed opening in its flank, which I understand serves a kitchen/diner. However, it is separated from this site by a passage, and the outlook from there is partially restricted by a fence. Additionally, there is glazing between no. 86's kitchen/diner and its conservatory, and that room therefore also receives natural light from that direction.
12. Adjacent occupants cite medical issues, and I recognise that there would be an impact on those residents during construction. However, from the available evidence, I am not persuaded that any temporary and limited effects arising from dust, fumes, noise and other disruption from this relatively modest development would be so significant as to warrant dismissal of the appeal.
13. For those reasons I conclude that the living conditions at nos. 86 and 88 Shelley Road would not be affected to a harmful degree, and that the scheme would not conflict JCS policy 8 e)'s requirement that development shall not have an unacceptable impact on the amenities of neighbouring properties.

Other matters

14. Vehicular access to the site would be gained via a rather tortuous private road. However, that road is used by other vehicles, Northamptonshire Highways raised no objection, and that general arrangement is consistent with the area's broad theme of rear accesses. Although the road is not in good repair, I see no reason why it could not be used by construction vehicles.
15. Turning to matters of crime and disorder, the scheme would have a front door leading straight to the footpath, and I would envisage that for access on foot the occupiers would typically use that rather than the more secluded route via the private road. Although the private road is unlit for a considerable length, and has limited surveillance, the scheme would include a parking area conveniently located close to the dwelling, and it appears that that area has been previously used for parking.
16. Whilst drawing no. A431/10C shows that the parking area would be partially enclosed by a 1.8m high timber fence, alternative boundary treatment could ensure fewer opportunities for concealment. Furthermore, given the scheme's rear and side windows, there would be greater overlooking of that area, and of the side and rear footpaths, than at present. The side footpath is partly enclosed by fences, trees and hedgerows. Replacement of some of those with a timber fence and new planting, together with the set back side wall of the proposed dwelling, would not, in my judgement, make that route any more oppressive.
17. Consequently, whilst I have considered Northamptonshire Police's comments, including its local crime figures, applying JCS policy 8 e) part iv, together with the Planning Out Crime in Northamptonshire Supplementary Planning Guidance 2004, and paragraph 69 of the National Planning Policy Framework ('Framework'), I am not persuaded that this scheme would materially affect the incidence, or fear, of crime or antisocial behaviour.
18. Any access to land outside the appellant's control for maintenance purposes or during construction would be a private matter between the relevant parties. I have no evidence of plans to block footpaths, nor cogent evidence that the scheme would encroach onto land outside the appellant's control. Given that both no. 86 and the appeal site would have a boundary with footpaths, I

consider that suitable arrangements for rubbish bins to be put out could be made. Finally, whilst I have had regard to the site's planning history, I have dealt with the scheme before me on its merits and against relevant planning policies and guidance.

Conditions and conclusion

19. Turning to the matter of conditions, I have considered those suggested against the Framework's tests. In addition to the standard time limit condition, in the interests of certainty, a condition is necessary requiring the development to be carried out in accordance with the approved plans. In the interests of the character and appearance of the area, conditions requiring the submission and approval of materials, a landscaping scheme, and a scheme for the protection of the beech tree during construction are also necessary. For the same reason, and in the interests of crime prevention, a boundary treatment scheme is also required.
20. Given the site's location on a former farm, the Environmental Protection Officer recommends a condition requiring the submission of a risk assessment and remediation scheme. Although I have limited information, on that basis such a condition is necessary in the interests of pollution prevention and ensuring appropriate living conditions.
21. The Council's suggested condition nos. 6 and 7 would remove permitted development rights for extensions and structures in the rear garden. However, the Planning Practice Guide states that such rights should only be withdrawn in exceptional circumstances. I have no evidence that nearby properties are subject to similar restrictions, and given the size of this site and its context, I am not persuaded that such circumstances exist here, and I have therefore not imposed them.
22. With regards Northamptonshire Highways' representation, it is not clear which matters are suggested as conditions. However, in the interests of protecting users of the adjacent footpaths, a condition is reasonable and necessary requiring details of the surfacing and drainage of the proposed parking area to be submitted.
23. Summing up, the proposal would not harm the character and appearance of the area, and would not affect the living conditions of adjacent occupiers to a harmful degree. Consequently, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Other than as required by the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: A431-00 and A431/10C.
- 3) Before development commences representative samples of all external facing and roofing materials shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved samples.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale, and a verification report shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the dwelling.
- 5) Before development commences details of a tree protection scheme in accordance with BS5837:2012 for the protection of the beech tree to the front of the site identified for retention on drawing no. A431/10C shall be submitted to the local planning authority for approval in writing. The approved scheme shall be implemented before development commences and it shall be retained until all construction work on the site has ceased.
- 6) Before development commences a landscaping scheme shall be submitted to the local planning authority for approval in writing. The submitted plan shall include details of the existing landscaping which is to be retained within the overall scheme. The approved scheme shall be carried out prior to the occupation of the dwelling, and any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased or are dying shall be replaced in the next planting season with others of a similar size and species.
- 7) Before development commences a scheme for boundary treatment shall be submitted to the local planning authority for approval in writing. The approved scheme shall be implemented before the dwelling is first occupied, and shall thereafter be retained.
- 8) Prior to the commencement of the development details of the surfacing and drainage of the proposed parking area shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling, and shall thereafter be retained.