



Appeal Decision

Site visit made on 4 July 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 22 August 2017

Appeal Ref: APP/F1040/W/17/3173416

Land rear of 1 Rosliston Road, Walton on Trent, Swadlincote DE12 8NQ

- 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 C Gordon against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/1228, dated 20 November 2016, was refused by notice dated 22 March 2017.
 - The development proposed is demolition of garden building and erection of single dwelling and provision of 2No. car parking spaces relating to No.1 Rosliston Road.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with regard to outlook and daylight.

Reasons

3. The appeal site is located within the settlement of Walton on Trent and is formed by part of the rear garden of 1 Rosliston Road. The area is characterised as being predominantly residential with residential properties to the north, west and south of the site and domestic rear gardens to the east. The residential properties are positioned on relatively large plots which provide a sense of openness to the area. The site is situated adjacent to a public right of way which runs along its western boundary and is separated from it by a hedgerow and fencing. In addition, the topography of the area means that the site is elevated above the nearby residential properties to the north and west.
4. Policy SD1 of the South Derbyshire Local Plan – Part 1 (LP) states that development will be supported that does not lead to adverse impacts on the environment or the amenity of existing and future occupiers within or around proposed developments. Furthermore, the Council's Housing Design and Layout Supplementary Planning Guidance (SPG) indicates that the separation distances indicated within the SPG between properties can be increased or decreased to ensure that a good standard of residential amenity is maintained.
5. The proposed dwelling would be two storeys in height and, due to its elevated position in relation to the adjacent properties on Harbin Road to the north and Leedhams Croft to the north west, I find that it would have an overbearing and dominant impact on neighbouring occupiers. Furthermore, the proposed

- dwelling would create a sense of enclosure and would have an impact on the amount of natural light which would reach the rear garden areas of adjacent properties on Harbin Road.
6. There would be some screening between properties along the site boundaries. However, due to the proximity of the proposed dwelling to the northern boundary of the site, I find that such screening would not effectively mitigate the overbearing and overshadowing effect of the proposed development on the adjacent properties to the north and their occupiers. The proposed dwelling would have a dominant and prominent presence for the occupiers of the properties on Harbin Road and Leedhams Croft. Furthermore, it would create an undue sense of enclosure, particularly with regard to the nearest rear gardens of those properties. Moreover, this would only be exacerbated by the elevated position of the appeal site and proposal in relation to the adjacent properties.
 7. Having had regard to the evidence before me and from what I saw at the site visit, I find that due to its proximity and elevated position, the proposed dwelling would have a detrimental impact on the amount of natural light which would reach the adjacent garden areas of the properties on Harbin Road. In addition, notwithstanding the existing trees and hedgerow, I find that the nearest property to the proposal, situated on Leedhams Croft would be adversely affected in terms of natural light and by way of being overbearing.
 8. I note the amendments submitted by the appellant in terms of the orientation and layout of the proposed dwelling in order to address concerns regarding the impact on neighbouring occupiers. Notwithstanding this, whilst I have given due consideration to such matters, I find that due to the existing topography at the appeal site such measures would not adequately mitigate the significant impact that the height of the proposal would have in terms of overshadowing and the outlook of neighbouring occupiers.
 9. I acknowledge that the proposed development would provide a new dwelling within an established residential area. However, due to its height, elevated position and proximity to neighbouring properties, including garden areas, I find that it would have a significant detrimental effect on the living conditions of neighbouring occupiers with regard to overshadowing and by way of it being overbearing. As a result, I find that the significant harm resulting from the proposal would clearly outweigh the benefits identified.
 10. Consequently, I conclude that the proposed development would have a significant detrimental impact on the living conditions of neighbouring occupiers with regard to outlook and natural daylight. It would therefore be contrary to Policy SD1 of the South Derbyshire Local Plan - Part 1 (LP). Amongst other matters, this policy seeks to ensure that development has no adverse impacts on its surroundings or on the amenity of existing and future occupiers within or around it.

Other considerations

11. The guidelines for separation distances between buildings, as set out within the SPG, assume a relatively flat topography and little or no screening. The SPG also states that where this is not the case, the minimum separation distances set out may be increased or decreased as appropriate. Given the specific circumstances in this case relating to the topography of the appeal site, I find

that it would be appropriate to take such matters into account. As a result, I find that an increase in the separation distances between the proposed dwelling and properties on Harbin Road would have no significant adverse impact with regard to overlooking and privacy issues. Notwithstanding this, I find that this would not override the significant harm I have identified with regard to the in the substantive matter above.

Conclusion

12. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR