
Appeal Decision

Site visit made on 22 August 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 7th September 2017

Appeal Ref: APP/P3040/W/17/3175732

82 Selby Lane, Keyworth, Nottinghamshire NG12 5AJ

- 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 Kelly against the decision of Rushcliffe Borough Council.
 - The application Ref 16/02275/FUL, dated 1 September 2016, was refused by notice dated 19 January 2017.
 - The development proposed is extension and alteration of existing garages and games room to form new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of the neighbouring properties with particular regard to outlook and the noise and disturbance associated with the proposed vehicular access.

Reasons

Character and appearance of the area

3. The appeal site forms part of the garden area at the rear of No. 82 Selby Lane (No. 82), a detached two storey dwelling with a large detached outbuilding encompassing a triple garage and games room at the rear of the property. It forms part of a linear development of residential properties running along the southern side of Selby Lane with Green Belt open countryside to the rear.
4. To the north, east and west are the garden areas and the outbuildings associated with the adjacent properties. Where outbuildings and other structures exist behind the residential properties, these are very low, small in scale, clearly subsidiary, and have little impact upon the sense of space and openness in the area. This gives the area a strong unifying character and appearance, which is further enhanced by the presence of mature landscaping and established trees within the surrounding gardens and the open countryside. The topography of the site slopes away from the existing dwelling towards the open fields at the rear.
5. The proposal would involve the extension and alteration of the existing garages and games room at the rear of no. 82 to form a chalet style dwelling with a triple garage, parking and garden area. The two storey element of the

- proposed dwelling would incorporate first floor accommodation into the roofspace that would be served by dormer windows.
6. Given the scale and two storey form of the development, it would represent a significant shift of the built up development beyond the edge of the settlement. The appeal site, together with the adjoining fields, provides a significant contribution to the visual quality and the openness of the area. It adds substantially to the character and appearance of this part of Keyworth and provides an important contribution to the setting of the settlement.
 7. Moreover, the siting itself, with the dwelling situated behind the existing dwellings at the front would create a backland form of development. This would introduce an uncharacteristic layout into the street scene. Paragraph 60 of the National Planning Policy Framework (the Framework) states that it is proper to promote or reinforce local distinctiveness. In this case, the siting and layout of the proposed development would not amount to a subservient form of development in this backland location and would fail to promote or reinforce the distinctive characteristics of the area. Such positioning would compromise the sense of space and openness and would harm rather than positively contribute to the character and appearance of the area.
 8. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed dwelling on the street scene. In any case, the site is viewed from the rear of a number of surrounding properties. As such, irrespective of the design approach, I consider the development would result in an incongruous and out-of-keeping addition that would adversely harm the character and appearance of the area.
 9. I have considered the appellant's arguments regarding the varied building line, form, design and layout of the dwellings along the southern side of Selby Lane and that the proposal would involve the conversion of an existing building that has been designed in order to minimise any impacts on the surrounding area. I also note the appellant's comments regarding the position of the proposed dwelling outside the Green Belt and the appellant's willingness to lower the ground levels further in order to minimise any impacts. However, whilst these features together with the boundary treatment and landscaping would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above and does not set a precedent for such inappropriate development in this backland location.
 10. I have noted the appellant's comments about the scale of the outbuilding encompassing the triple garages and games room being smaller than that previously approved. However, this relates to a different scale and form of development that forms part of an ancillary structure approved in a different policy context some time ago. I also note the appellant's comments regarding the pre-application advice of the Council and the amendments to the appeal scheme. The Council, however, are not bound by the officer's pre-application advice in making their final decision and the amendments do not overcome the factors outlined above. I therefore accord these matters limited weight.
 11. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The development conflicts with Policy 10 Part 1 (a), Policy 10 Part 2 (a) and (f) and Policy 10 Part 4 of the Rushcliffe Local Plan Part 1: Core Strategy 2014 (CS) which I consider are the most relevant development plan policies. These policies, amongst other things, seek

to ensure that development is designed to make a positive contribution to the public realm and sense of place and that the design, scale, massing and layout of the proposal takes into account the neighbourhood buildings, local context and landscape character. In addition, the proposal would not accord with aims of the Framework that development should seek to respect the local character (paragraph 58); to promote or reinforce local distinctiveness (paragraph 60) and improve the character and quality of an area and the way it functions (paragraph 64).

Living conditions of the occupiers of the neighbouring properties

12. The submitted plans show a long vehicular access to the appeal scheme running between Nos. 82 and 82a. The proposed access would run alongside the bungalow and the small rear garden of No. 82a and would be separated by a fence of about 1.8m high along the common shared boundary. There are window openings along the side and rear elevations of the dwelling at No.82a. In addition, the proposed parking area for the new dwelling would be located immediately behind the rear garden at No. 82a. Although, in general terms, rear gardens may contain various structures incidental to the use of the dwellings in this location, the intensity of use and activities arising from an additional dwelling are likely to be materially different.
13. Whilst I accept the occupiers of No. 82a would be used to certain levels of noise and disturbance associated with the existing vehicular access and the parking area to No. 82 and, that the boundary treatment would reduce the impact of the development to some degree, given the position of the proposed access and the separation distance between the properties, I consider the proposal would give rise to an increased level of noise and disturbance to the dwelling and the rear garden of No. 82a associated with the proposed vehicular access and parking area. In particular, it is likely to lead to a level of comings and goings from vehicles and pedestrians that would be higher than might be expected from the existing dwelling and any incidental buildings such as the garages at No. 82. I therefore consider that the proposed access and parking area would adversely harm the living conditions of the occupiers of No. 82a.
14. However, given that the side elevation of No. 82 only contains a secondary ground floor kitchen window and high level bedroom window, I do not consider the proposed access would adversely harm the existing or future occupiers of No. 82. However, this is not a determinative factor on its own.
15. In relation to outlook, the east elevation of the proposed dwelling measuring about 31m in length would be located about 1.3m from the common boundary with No. 86. It would be separated from No. 86 by a number of outbuildings and a proposed 2m high boundary fence along the southern-most part of the eastern boundary. The property at No. 86 currently has an uninterrupted view over the single storey section of the appeal building and the garden areas and countryside at the rear that provides space and light between the properties.
16. I have considered the appellant's arguments that the site layout and the design of the dwelling have been carefully considered in order to minimise any impacts on occupiers of the adjacent properties and the proximity of the current building to the boundary with No. 86. Whilst these features together with the current outbuildings at the rear of No. 86 and the proposed boundary treatment would reduce the impact of the proposal to some degree, given the overall height and massing of the proposed dwelling and the separation

distance between the properties, I consider the proposal would dominate the views from the garden at the rear of No. 86. It would introduce a dominant and enclosing structure in close proximity to the common boundary that would severely restrict the outlook of No. 86.

17. Consequently, I conclude that the proposal would result in harm to the living conditions of the occupiers of the neighbouring properties at Nos. 82a and 86 with particular regard to outlook and the noise and disturbance associated with the proposed vehicular access. The development conflicts with CS Policy 10 Part 2 (b) which I consider is the most relevant development plan policy. This policy seeks to ensure that new development protects the amenity of occupiers or nearby residents. In addition, it would not accord with the aims of the Framework that seeks to secure a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).

Other Matters

18. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. Paragraph 49 of the Framework states that relevant policies for the supply of housing cannot be considered up to date if the local planning authority cannot demonstrate such a supply. Paragraph 14 of the Framework sets out the presumption in favour of sustainable development. For decision making this means that where the development plan is absent, silent or relevant policies are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Sustainable development is identified as having social, economic and environmental roles in the Framework.
19. The appellant states that the proposal would be well connected to existing services and facilities and provide some social and economic benefits through contributing to the supply of housing in the area and would make efficient use of previously developed land in an accessible location. However, while I note the appellant's view that the scheme's design would amount to environmental benefits, I have found above that taken overall the development would harm the area's character and appearance and the living conditions of the occupiers of the neighbouring properties. This harm would conflict with the environmental dimension of sustainable development and, in my view, would be sufficient to significantly and demonstrably outweigh the scheme's benefits when assessed against the policies in the Framework as a whole. The proposal would not therefore amount to sustainable development in the terms of the Framework.
20. I have noted the objections from Keyworth Parish Council and a local resident to the proposal. However, in light of my findings on the main issues of the appeal, my decision does not turn on these matters.

Conclusion

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

David Troy

INSPECTOR