

Appeal Decision

Site visit carried out on 30 October 2017

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Decision date: 08 November 2017

Appeal Ref: APP/R1038/W/17/3180664

63 Westthorpe Road, Killamarsh, North East Derbyshire S21 1ET

- 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 N Saleh against the decision of North East Derbyshire District Council.
 - The application No 17/00434/FL, dated April 2017, was refused by a notice dated 28 June 2017.
 - The development proposed is the erection of a dwelling.
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Decision

1. For the reasons that follow, the appeal is dismissed.

Procedural Matters

2. The appellant's grounds of appeal suggest that a new access for the proposed dwelling is not needed. However, I am required to make a decision based on the scheme that was before the Council when it determined the application. Whilst one iteration of the amended plans that were submitted to the Council prior to determination of the application did show the proposed dwelling being served by the existing access for No 63, the appellant was advised that such an arrangement raised highway safety concerns and was unacceptable. A further revised drawing was then submitted which reverted back to the access arrangement as originally proposed, with a new access to be created for the dwelling. I have dealt with the proposal on that basis. Any revised arrangement would need to be the subject of a separate application for consideration by the local planning authority in the first instance.

Main Issues

3. These relate to the effect of the development proposed on the character and appearance of the area, the effect of the proposed access on highway safety, and the effect of the proposed parking arrangement on the living conditions of the occupiers of 63 Westthorpe Road having particular regard to privacy and outlook.

Reasons for the Decision

Character and Appearance

4. No 63 Westthorpe Road comprises an extended detached property set within a spacious plot. Short rows of terraced properties lie on each side of the wide curtilage.

5. It is proposed to erect a modest two-storey two-bedroom dwelling within the garden to one side of the host property, separated from the existing house by approximately 0.8 metres. Although the dwelling proposed would be close to the stone boundary wall, the side wall of the adjacent terraced property is set a couple of metres or so off that shared boundary.
6. I saw quite a variety of style and type of housing in the immediate vicinity, including short terraces, some of which sat at the back of pavement, others behind front boundary walling; single and two storey properties set around a grassed square; semi-detached properties and detached properties. There is no defining architectural rhythm in terms of the spacing between properties. In fact the area is characterised by variety.
7. The Council takes no issue with the design of the proposed dwelling *per se*, the design having been amended during consideration of the application to address concerns raised by officers. I have no reason disagree: the plans show a traditional design, with a flat front and a pitched roof and, as noted in the officer's report, its size and scale is generally consistent with the neighbouring terrace properties. Moreover, whilst the development proposed would be close to the host property and would reduce the visual separation between it and the adjacent terrace, I am not persuaded that it would necessarily be seen as cramped when regard is had to the local context.
8. I saw that a number of properties have hard-surfaced frontage parking, sometimes behind a front boundary wall, sometimes with no front boundary treatment. I shall return later to the effect of the proposed parking arrangement in terms of living conditions, which is a separate matter. Suffice it to say here, that the principle of frontage parking, shown behind the retained stone wall that runs along the rear of the footway here, is not an uncharacteristic feature of the area.
9. All in all, I am satisfied that there would be no harm to the character and appearance of the area. There would be no conflict, in this regard, with policies GS5, BE1 and H12 of the North East Derbyshire Local Plan (adopted November 2005) which together and among other things are supportive of development that protects and respects the character and appearance of the surrounding area, and which maintains and contributes to local distinctiveness.

Highway Safety

10. The Highway Authority requires minimum visibility splays of 2.4 x 47 metres in both directions on exit from the proposed access to ensure adequate inter-visibility between emerging and oncoming traffic. Figure 7.18c of the publication *Manual for Streets (MfS)* sets out how visibility splays are to be measured at junctions where an access is on the inside of a bend, such as is this case here.
11. Plan No 17/03/07/001/B and an annotated aerial photograph submitted by the appellant purport to show splays that meet the requirements of the Highway Authority. However, not only is the plan at an inappropriate scale, but neither sets out the splays in the prescribed manner. Whilst visibility to the right on exit is acceptable, the Highway Authority confirms that visibility to the left, when measured in accordance with the published guidance, is only half that required, being substantially restricted by the curvature of the road, vegetation

on adjacent land outside the appeal site and a terrace of houses along the back of pavement beyond that.

12. In coming to a view on the appeal scheme, I am mindful that Manual for Streets 2 (MfS2) a companion guide to the MfS, advises that unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem.
13. It is not clear as to how the Highway authority has arrived at the 'y' distance figure of 47 metres for this location. The MfS indicates that the 'y' distance should be based on the values for Stopping Sight Distances (SSD) with Table 7.1 of MfS indicating an SSD of 43 metres on roads with a 30mph speed limit. Even so, with a 'y' distance of apparently only around 24 metres, visibility to the left is significantly foreshortened. I note, in this regard, that visibility in that direction is further restricted on occasion, by on-street parking in front of the adjacent terrace.
14. The proposed arrangement would introduce traffic movements onto and from the public highway at a point where emerging visibility is severely restricted in one direction. Whilst I recognise that, in some cases, standards can be applied with some flexibility, this should never be to the extent that danger is likely to be caused. In this case, even having regard to the advice in MfS2, I am not persuaded that a 'y' distance of approximately half that required at this point on Westthorpe Road would be sufficiently safe. As a consequence, the development proposed would be materially detrimental to highway safety. There would be conflict, therefore, with policy T2 of the Local Plan which seeks, among other things, to ensure that new development is served by a safe access with appropriate visibility.

Living Conditions

15. A couple of side facing windows on the host property at ground and first floor level would face directly onto the side wall of the dwelling proposed. Plan No 17/03/07/008 shows that the windows adjacent to the chimney breast at ground and first floor would be blocked up, a matter that could be secured by condition were the appeal to succeed. These are secondary windows to a through lounge (ground floor) and to a bedroom (first floor) both of which rooms are lit by other windows. There are no material implications therefore, in terms of outlook. Other side facing windows located in a projecting element at the front of the existing house are set much further away from the boundary with the appeal site. In any event, they relate to a cloakroom and a stairwell as opposed to habitable rooms.
16. Although not raised as a concern by the Council, I note that the dwelling proposed would be set well forward of the front facing lounge and bedroom windows of the host property. Whilst the grounds of appeal suggest that the 45 degree rule from adjoining windows is not compromised, that is not evidenced anywhere. Had the appeal been acceptable in all other regards, I would have required further information in terms of the effect of the proposed arrangement on light to those rooms and the outlook for occupiers, particularly given the projecting element to the front of the property on the far side of those windows. I confirm though, that I have not have regard to those windows in coming to an overall view in terms of the outcome of this appeal.

17. However, the proposal gives rise to a need for two on-site parking spaces which would be provided to the front of the dwelling. As a consequence of site constraints, one of the two spaces would be offset to the side, located immediately in front of No 63, less than 4 metres from the front facing window of the lounge and less than 2 metres from the windows of the entrance hall. In such close proximity, the arrangement proposed would result in future occupiers walking to and from any car parked in that space passing close to the nearest front facing windows of the host dwelling, with adverse implications for the living conditions of the property in terms of privacy and outlook. There would be conflict, in this regard, with policies GS5, BE1 and H12 of the Local Plan which together and among other things seek to protect such interests.

Conclusion

18. Whilst I have found no harm in terms of character and appearance, the proposed access would result in material harm in relation to highway safety and the proposed parking arrangement would result in harm to the living conditions of occupiers of the host property with regard to outlook and privacy. As a consequence, the development would be in conflict with the development plan as a whole. Accordingly, for the reasons set out above, I conclude on balance that the appeal should not succeed.

Jennifer A Vyse
INSPECTOR