
Appeal Decision

Site visit made on 30 October 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 24th November 2017

Appeal Ref: APP/W3710/W/17/3180902

Land to the rear of 63-65 Regent Street, Nuneaton CV11 4BL

- 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 B Carroll against the decision of Nuneaton & Bedworth Borough Council.
 - The application Ref 034558, dated 13 December 2016, was refused by notice dated 27 January 2017.
 - The development proposed is described as 'Renewal of expired Planning Approval 030464 for a 5 year approval. Two new dwellings, 63-65 Regent Street.'
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr B Carroll against Nuneaton & Bedworth Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are as follows:
 - The effect of the proposal on the living conditions of the residents of No 67 Regent Street, in respect of outlook and daylight; and
 - The effect of the scheme on highway safety in the site vicinity.

Reasons

4. No 63 Regent Street is the end unit on a terraced run of properties and is currently occupied by an estate agent. The 2 storey property shares a common tiled canopy over its ground floor with No 65 Regent Street, but has a higher eaves line than its neighbour. To the rear of the properties lies a largely gravelled rear yard which provides a parking area, and is accessed off Regent Street directly adjacent to its junction with Leicester Road.

Living Conditions

5. No 65 and the neighbouring No 67 Regent Street have two storey outriggers to rear, forming a small courtyard at the back of the two houses, which is accessed one way via a passageway underneath the properties. A low boundary wall with close boarded fence on top continues the boundary between

the two houses after the passageway; this runs parallel between the two properties until roughly the rear building line of the outriggers, and then angles sharply towards the south west. This boundary line is roughly mirrored on the other side to the rear of No 67, where, following a small flat roof extension, the rear of an approximately 1½ storey industrial looking unit runs along the south western boundary. As a consequence the rear garden/amenity space for No 67 is a fairly narrow dogleg shaped rectangular area.

6. Planning permission was granted in 2013 for a two storey building mainly to the rear of No 63, to run from the rear of the outrigger in a south westerly direction, with an angle slightly shallower than the boundary fence, and the southern corner of the building closer to the fence than the north east corner. This permission expired in late 2016 and the application that this appeal relates to sought to achieve consent for the same scheme in design terms.
7. The ridge and eaves line of the proposal would be lower than that of the outrigger that the building would be attached to; nevertheless the proposal would still provide a two storey building with two floors of residential accommodation. The rear elevation of the building would have one ground floor set of French doors, but no other openings would be present on this face.
8. No 67 has a window at first and ground floor level on its rear, with further windows on the sides of the outrigger facing towards No 65. Light is already fairly restricted within the courtyard, due to the outrigger arrangement and the boundary wall and fence further restricting light to ground floor windows. As a result, and due to the angling of the proposed building to the south west, set in from the corner of No 65 I do not consider that the proposal would have a significant adverse effect on daylight reaching the rear windows of No 67.
9. However, I consider that the proposal would enclose the rear garden of no 67 significantly. This area is already enclosed on one side by the existing industrial building. The proposal would construct a two storey structure with a largely blank wall. The Council note that at its closest point such a wall would be sited some 2m from the boundary of No 67 and that the structure would be around 5.4m high to eaves and 7.5m to roof ridge. The effect of a building at such close proximity to the rear garden of No 67, particularly when combined with the existing structure on the southern boundary, would visually enclose the rear garden of No 67 almost entirely, having a dominating effect on the outlook of the neighbouring residents and creating an oppressive and claustrophobic rear amenity space.
10. I therefore conclude that the proposal would have a significant adverse effect on the living conditions of the residents of No 67 Regent Street, in respect of outlook. The proposal would be contrary to policy ENV 14 of the Local Plan¹, which states that the design of development should be of a high standard and comply with supplementary planning guidance. The Council's Residential Design Guide of 2004 states that near the boundary of an adjoining usable private rear amenity space a two storey extension shall be less than 3 metres long, which the proposal would breach. Furthermore, the proposal would also be contrary to the National Planning Policy Framework, which states that as a core planning principle that planning should always seek a good standard of amenity for all existing occupiers of land and buildings.

¹ Nuneaton & Bedworth Borough Local Plan 2006

Highway Safety

11. The current space to the rear of Nos 63 and 65 comprises a reasonably large gravelled area, which appeared to be under use for car parking at the time of my visit. The site itself lies on the fringes of the town centre, which is reflected by the local road environment – whilst Regent Street itself maintains the air of a largely residential street, Leicester Road is a busy 4 lane dual carriageway from which egress from Regent Street is only possible towards the left, and traffic lights are located just outside the exit from the site. Due to the presence of these lights, traffic is often slowing or stationary outside the site, making exit from the site onto Leicester Road reasonably easy.
12. The site is located in a sustainable area, close to bus routes and the town train station, and given the size of the proposed units and its location I consider it likely that future occupiers may not require a car; indeed, I note the Council consider that it is reasonable to conclude that the new occupants will not need a car. Even if they were to own private vehicles however, the site would still be large enough to accommodate such vehicles and manoeuvring areas to allow cars to access and leave the site in forward gear.
13. The pavement along Leicester Road is reasonably busy, befitting of its location on the edge of the town centre, and reference is made in evidence to students often using the pavement to access a college located to the north east of the site. Higher number of vehicles using the access could lead to a potential of conflict with pedestrians, especially given the height of the boundary wall between the site and Leicester Road, meaning that pedestrians would not see cars leaving the site until late on. However, the appellant has suggested that the wall could be lowered adjacent to the access. Such a measure could be conditioned, and would ensure that pedestrians and drivers of vehicles could more easily see each other when in close contact.
14. Therefore, given suitable conditions I consider that the scheme would not have an adverse effect on highway safety in the site vicinity. The development would be sited in a location where the opportunities for the use of sustainable transport modes would be high, and safe and suitable access could be achieved to the site for all people, minimising conflict between traffic and pedestrians.

Conclusions

15. I have concluded that the proposal would not cause harm to matters of highway safety. However, this does not overcome my concern over the effect of the proposal on the living conditions of the occupiers of No 67 Regent Street.
16. I note that the Council are unable to demonstrate a 5 year supply of deliverable housing sites, and that the shortfall appears severe. The economic and social benefits of providing and constructing two new homes, particularly in an area with a lack of demonstrable housing supply, therefore weighs heavily in favour of the scheme. However, I consider that the adverse impacts of the proposal are so substantial so as to significantly and demonstrably outweigh such benefits, and note that the proposal would be contrary to the development plan.
17. I have sympathy with the appellant's predicament given the recent permission which was granted for the same scheme. However, I note that the Council's previous officer report contains very similar areas of wording to the officer

report for the application in this case and appeared to have been written as a refusal, despite the eventual consent. This permission has expired and I have concluded that the appeal proposal would be contrary to the development plan. I do not consider that the benefits of the scheme and the existence of the previous consent outweighs this conflict.

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

Jon Hockley

INSPECTOR