
Appeal Decision

Site visit made on 14 November 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 30th November 2017

Appeal Ref: APP/A3010/W/17/3180997

Tievoli, Main Street, Clarborough, DN22 9LS

- 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 Michael Baines against the decision of Bassetlaw District Council.
 - The application Ref 17/00414/RSB, dated 16 March 2017, was refused by notice dated 23 May 2017.
 - The development proposed is the erection of 2 properties and amended access within the curtilage of the existing property.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - The effect of the proposal on the living conditions of nearby occupiers, with particular reference to noise and disturbance, outdoor amenity space provision, outlook, and privacy; and
 - Whether the proposal would provide adequate living conditions for the future occupiers, with particular reference to outdoor amenity space provision, outlook, daylight and sunlight, and privacy.

Reasons

3. The appeal site comprises the detached bungalow at Tievoli and its long rear garden which is somewhat overgrown in places and used to store a number of vehicles and caravans. It is within the development boundary for Clarborough and in a residential area.

Living conditions nearby occupiers

4. The proposed houses would be accessed via the existing driveway which runs to the side of Tievoli. This serves the side and rear of the property and I understand that there are currently a number of vehicle movements there each day. These are associated with the parking of the appellant's two cars and work van along with the maintenance of vehicles. Additionally, I note that occasional vehicle movements by a lorry tractor unit, caravan, and steam engine also take place in the garden area to the rear of the dwelling. The adjoining occupier at 1 Chapel Close confirms that the drive is used quite a lot at the moment.

5. Even so, I am mindful that this existing use of the site is associated with the domestic use of Tievoli only. The appeal proposal would introduce two further dwellings to the site and a number of pedestrian and vehicular movements would arise from the future occupiers of the new properties, along with those that would be generated by visitors and deliveries. Even taking into account the cessation of the appellant's current use of the rear of the site, in my view the proposal would increase movements on the driveway considerably.
6. The driveway runs directly alongside the existing bungalow at Tievoli which has windows serving a bedroom, an office and a kitchen on its flank elevation. It also abuts the side garden of adjacent 1 Chapel Close which adjoins the site to the north. I saw at my visit that this property is currently being extended to bring the dwelling closer to the boundary with the appeal site.
7. The increased number of comings and goings would take place at very close quarters to Tievoli's ground floor windows and to No 1's side garden area. Even having regard to the boundary hedge between the site and No 1, to my mind they would result in unacceptably increased levels of noise and disturbance being experienced by the occupiers of both properties which would be harmful to the living conditions of the occupiers there. That the occupier of No 1 supports the proposal does not alter my view.
8. In terms of outdoor amenity space, the proposal would lead to the loss of a good deal of Tievoli's large rear garden. That said, the appellant estimates that the existing bungalow would retain an overall garden of some 107 square metres in size and incorporate patio areas that would be easy to maintain. He advises that this would exceed the minimum requirement of 85 square metres for one to three bedroom detached homes that is set out in policy guidance. The appellant also explains that the existing bungalow would be aimed at households looking to downsize as supported by Policy 3 of the Clarbrough and Welham Neighbourhood Plan (Neighbourhood Plan).
9. I have not been made aware of the Council's particular standards in this regard, or been provided with copies of any such policy guidance (although I note that the Council does not dispute the appellant's findings on this matter). In any event, in practical terms, whilst Tievoli's resultant garden area would not be particularly spacious, areas would be provided to both the front and rear of the bungalow which would in my view provide adequate space for normal domestic activities such as hanging washing outside to dry, for children to play, or to sit and enjoy the outdoor environment.
10. Although the Council is also concerned that the existing property at Tievoli would experience a loss of outlook, I have seen no details as to its particular objections in this regard. In the absence of any further explanation, whilst I note that the double garage for the proposed house on Plot 1 would be to the rear of Tievoli, it would be separated from it by an area of garden and would not be in such close proximity to the rear of the host property such that any harmful loss of outlook would arise.
11. Turning to privacy, the Council considers that the proposed two storey house on Plot 2 would overlook parts of the gardens of the properties to the north of the site (in Chapel Close). The appellant confirms that the proposed house on Plot 2 would be more than 20 metres from any existing dwellings and the Council does not dispute this. I also understand that the orientation of the building has been adjusted in response to a previously refused scheme.

12. Whilst the proposed house on Plot 2 would be positioned very close to the northern boundary of the site, the upper floor northern flank window would serve the landing (the southern flank window to the ensuite would be obscure glazed). The front first floor windows would be limited to an obscure glazed bathroom window closest to the boundary and a bedroom/study window that would be set further away from the boundary. This being so, whilst the study window would afford some relatively close range views of the rear gardens of the houses in Chapel Close, these would be taken somewhat obliquely, and in the context of the intervening boundary vegetation, and would be confined to the very end parts of the gardens that are furthest from the houses. Consequently, I am not convinced that any harmful loss of privacy to those gardens would arise.
13. In terms of the neighbouring properties to the east, the appellant confirms that the tall conifer hedge to the rear of the site on its eastern boundary is to be retained. I understand that this is owned by adjoining 12 Howbeck Lane. Given the height of this substantial planting and its evergreen nature I am satisfied that it would screen views of No 12's garden from the rear of the house on Plot 2. Given the separation distances involved, I am also content that no harmful overlooking of neighbouring Pond Barn to the south would arise.
14. Bringing matters together on this main issue, I have found that the proposal would retain adequate outdoor amenity space and outlook for the occupiers of Tievoli and would not lead to any harmful overlooking of nearby properties. However, it would result in an unsatisfactory increase in the noise and disturbance that would be experienced by the occupiers of Tievoli and No 1. I therefore conclude on this main issue as a whole, that the proposal would be harmful to the living conditions of nearby occupiers.
15. This would be contrary to Policy DM4 of the Bassetlaw Core Strategy and Development Management Policies Development Plan Document (Core Strategy) which allows new housing development where it respects the character of the surrounding area, is of an appropriate design, provides adequate amenity space, does not detrimentally impact on the amenity of nearby residents, and is not to the detriment of road safety. It would also be at odds with the core planning principle of the National Planning Policy Framework (the Framework) to always seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Living conditions for future occupiers

16. With regard to outdoor amenity space, the appellant advises that the garden for Plot 1 would be around 132 square metres in size and would exceed the guideline of 85 square metres. This is not disputed by the Council, but as set out above, I am unaware of any particular guidelines or standards in this regard. From the drawings submitted whilst the garden area would not be particularly large, an area of open space would be provided to the side of the dwelling with smaller narrower areas to the front and rear. It seems to me that these would provide adequate space for normal domestic activities such as hanging washing outside to dry, for children to play or to sit and enjoy the outdoor environment.

17. Although not raised as an issue by the Council, local residents also refer to the inadequacy of the garden area proposed for Plot 2. The appellant indicates that this would be some 120 square metres in size and would exceed the minimum requirement in policy guidance for four bedroom houses of 100 square metres. Again, I am not aware of that guidance. However, the plans show that only a small garden would be provided to the rear of the house. Given the proximity of the proposed dwelling to the rear boundary of the site, this would not be very deep. Moreover it would be bounded by the tall evergreen conifer hedge on the site's eastern boundary. As such, it would be very much enclosed and in shadow for much of the day. In my view these factors would seriously limit its practical use as private outdoor amenity space that would be reasonable to serve a four bedroom family home.
18. Additionally, to my mind, the proximity of the substantial conifers to the rear would seriously impinge on the outlook from the rear windows of the proposed house on Plot 2. From there they would be seen as tall and imposing features that would be visually oppressive and create an unacceptable sense of enclosure. As raised by local residents, they would also serve to limit the amount of sunlight and daylight that would reach those rooms (particularly on the ground floor). Whilst I note the appellant's view that the conifer hedge would need pruning, since it is not within the appellant's control this cannot be relied on. In any event, in the absence of any details of what this pruning might entail, I am not convinced that it would be sufficient to mitigate the impacts described.
19. The Council also refers to a sub-standard level of overlooking of the dwelling on Plot 1, but provides no further explanation as to its concerns. The appellant advises that the only window that would overlook Plot 1 is a small bedroom window at the proposed house on Plot 2, but he considers that these views would not be direct. In the absence of any further justification from the Council on this point, I am not persuaded that any harm would arise in this regard.
20. I therefore conclude on this main issue that whilst I see no reason to resist the scheme in terms of Plot 1 on the grounds outlined, the proposed house on Plot 2 would provide unsatisfactory amenity space and unacceptable levels of outlook and daylight and sunlight for its future occupiers. Thus as a whole the proposal would fail to provide adequate living conditions for future occupiers. This would be contrary to Core Strategy Policy DM4 as set out above, and the core planning principle of the Framework to always seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Other matters

21. The site is within the built up area with residential properties nearby. The Council raises no objections to the principle of the development of the site for housing, or as to the appearance of the proposed dwellings. Despite the concerns of local residents, there are no objections on highway safety or flood risk grounds either. I am also aware of the appellant's view that since there are examples of development in garden areas nearby, no precedent would be set for future development. Additionally there are no objections from the Parish Council. The absence of harm in these regards counts neither for, nor against the proposal.

22. The appellant considers that the houses would be constructed to high standards using quality materials and would integrate into the village. They would be close to its centre with easy access to facilities and services. The appellant also advises that the proposal would meet the need for two bedroom bungalows and four bedroom family homes in the village and seeks to infill a poorly used parcel of land for much needed housing. As such, he considers the proposal would align with Policies 3 and 4 of the Neighbourhood Plan. Whilst these are benefits of the scheme, its contribution to housing land supply and mix would not be great given the limited scale of the proposal for two dwellings. As such, they are insufficient to outweigh the harm I have identified.
23. The appellant refers to a similar proposal on the other side of Main Street (at Wayside on Big Lane) which has a similar access arrangement between two properties. I note his view that that development shares a much closer relationship with the neighbouring dwellings than the appeal proposal. He also refers to another example on Church Lane. However, I am not aware of the full circumstances that led to those developments and so cannot be sure that they are the same as in the case before me. In any event, I confirm that I have considered the proposal on its own individual planning merits.

Conclusion

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

Elaine Worthington

INSPECTOR