
Appeal Decisions

Site visit made on 13 December 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 8th January 2018

Appeal A Ref: APP/L2440/W/17/3179598

26 Vandyke Road, Oadby, Leicestershire LE2 5UB

- 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 John Ellis against the decision of Oadby & Wigston Borough Council.
 - The application Ref 17/00024/FUL, dated 10 January 2017, was refused by notice dated 7 April 2017.
 - The development proposed was originally described as the erection of a small dwelling and garage on land currently used as part of the garden of Number 26 Vandyke Road, Oadby.
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Appeal B Ref: APP/L2440/W/17/3184441

26 Vandyke Road, Oadby, Leicestershire LE2 5UB

- 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 John Ellis against the decision of Oadby & Wigston Borough Council.
 - The application Ref 17/00260/FUL, dated 5 May 2017, was refused by notice dated 12 July 2017.
 - The development proposed was originally described as the erection of a small dwelling and garage on land currently used as part of the garden of Number 26 Vandyke Road, Oadby (Amended Submission).
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. As set out above, there are two appeals on this site. They differ primarily in the design of the proposed dwelling. The proposal relating to Appeal A is for a 1.5 storey dual-pitched roof dwelling, with accommodation in the roof space. Appeal B relates to a single storey bungalow. The design of the associated garages primarily differ in terms of their respective roof profiles, with Appeal A having a mono-pitched roof and Appeal B a dual-pitched roof. While both proposals take up a broadly similar position on the site, their footprints differ to a small extent. Both proposals would be accessed from the same point.
4. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

5. A main issue in both appeals is the effect of the development on the character and appearance of the area. With regard to Appeal A, there is an additional main issue relating to the effect of the development on the living conditions of nearby occupants, with particular regard to privacy and outlook.

Reasons

6. The appeals relate to part of the rear garden of 26 Vandyke Road. This is a detached dwelling which sits on a corner plot. The relatively long rear garden runs parallel to a row of detached dwellings opposite.
7. Notwithstanding the fact that some of the detached dwellings opposite the site have been extended and there are some differences in detailing and the treatment of forecourts and front gardens, they maintain a strong complementary character and appearance. They are broadly of the same two storey design and set back from the road behind open forecourts and front gardens. As a result of this, the area maintains a sense of openness. The open frontages and large rear gardens, including that of No 26 contribute to this open character.
8. As a result of their respective heights, widths, the set back from the roadside, closed frontage, orientation, plot ratio and area of garden space, neither of the proposals before me would reflect the predominant scale, design, grain or density of other dwellings in the immediate street scene. Both the 1.5 storey and single storey form of development would appear incongruous and would undermine the currently homogenous character of the street. The smaller scale of the proposals and their design and siting would also appear as a somewhat contrived attempt to squeeze a dwelling into a confined space with little regard to the character of the surrounding area. The resulting intensification of development on the site would also be out-of-keeping with the predominant density and nature of development exhibited by other plots in the immediate vicinity of the site. The reduced height of the Appeal B proposal would not resolve this concern.
9. The appellant has suggested the existing character and appearance of the dwellings in the area is not of a high quality. However, this does not alter my view that both forms of development would introduce a harmfully discordant feature into the street scene. I recognise the appeal site is not in a prominent location and the proposed boundary treatment would provide some degree of screening. The materials proposed would also complement those of the existing dwellings. Nonetheless, the incongruous scale and design of both proposed dwellings would still be readily apparent to residents on Vandyke Road. The screening would not therefore be sufficient to mitigate the negative impact of either development.
10. The appellant has suggested that the design of the proposals would reflect the nature of the dwellings on Ash Tree Close. While the rooflines of these dwellings from Vandyke Road, they are not prominent features and do not establish any kind of context for development in this location. As such, they do not provide a strong justification for the type of dwellings being proposed through either Appeal A or B.

11. In conclusion, both forms of development would have an unacceptable impact on the character and appearance of the area. Accordingly, both proposals conflict with Oadby & Wigston Core Strategy (CS) (2010) policies 14 and 15 and Landscape Proposal 1 of the Oadby & Wigston Local Plan (LP) (1999) which seek, amongst other things, to ensure development respects and reflects local character and is sympathetic to its surroundings. There would also be conflict with LP Housing Proposal 13, the Oadby & Wigston Residential Development Supplementary Planning Document (SPD)(2005) and the Oadby & Wigston Landscape Character Assessment (LCA)(2005) which seek, amongst other things, to ensure residential infill development does not have an adverse effect on the character of an area.
12. There would also be conflict with paragraphs 56 and 64 of the National Planning Policy Framework (the Framework) which highlight the importance of the design of the built environment and state that permission should be refused for development of poor design that fails to take opportunities to improve the character and quality of an area.
13. The Council has referred to LP Landscape Proposal 2 in its reasons for refusal relating to character and appearance for both applications. However, this policy appears to relate only to the effect on the living conditions of occupiers and users of adjoining land and thus is not relevant to this main issue.

Living conditions

14. The Council raises no objection in relation to Appeal B in terms of the effect of the development on privacy and outlook. I saw nothing to suggest I should conclude otherwise. However, they consider the 1.5 storey dwelling associated with Appeal A would have an unacceptable effect on the privacy of residents on 7 and 8 Ash Tree Close and on the outlook of these properties and 27 Vandyke Road.
15. While the dwelling would have a north facing bedroom window, there would be substantial distance between this and those on Ash Tree Close. As a result, I do not consider that there would be an unacceptable impact in terms of views into habitable rooms. There may be some potential for increased overlooking into the gardens of the properties. However, it is not unusual for there to be some degree of overlooking of this nature in residential areas. The development would add another potential source of overlooking into the, but I do not consider that the resulting relationship between the dwellings would be inherently harmful.
16. The outlook from No 7, No 8 and No 27 would clearly alter as a result of the development. Although taller than the development proposed under Appeal B, I am not convinced that the effect on outlook from these properties would be significantly different, particularly for the occupants of No 27. When taking the scale and height of the proposal into account, I am satisfied that there would be sufficient distance between the rear elevations of all these properties and the development to ensure it would not have an unduly intrusive or overbearing impact from habitable room windows. The effect on the outlook from gardens would be more significant, but I do not consider the overall scale, height or mass of the proposal sufficient to cause unacceptable harm the continued enjoyment of these spaces.

17. Taking all matters into account, I am not convinced by what is before me that a dwelling in this location would have an unacceptable impact on the living conditions of neighbouring occupants. Accordingly, there would be no conflict with CS Policies 14 and 15, LP Landscape Proposals 1 and 2, the SPD or LCA which seek, amongst other things, to ensure residential infill development does not harm the amenities of the occupiers of adjacent properties. There would also be no conflict with the Framework which seeks, amongst other things, to ensure a good standard of amenity for existing occupants¹.

Other Matters

18. The appellant is concerned that the Council's comments on design were not provided by a trained architect and that it is not reasonable that untrained people should be making judgements on such matters. This is not a matter before me. I have considered the appeals on their own merits based on the evidence provided and my own observations of the site and its surroundings.
19. In relation to Appeal A, the appellant invited me to make recommendations to amend the proposal. This is outside the scope of the appeal process. I am required to consider the proposal as submitted only.
20. The appellant has suggested that the development would not result in an unwelcome precedent as there are no other sites of a similar nature in the area. Even if this were the case, it would not alter my conclusion that both developments would have an unacceptable impact on the character and appearance of the area.

Conclusion

21. Notwithstanding my views on living conditions, the development would still conflict with the development plan in terms of the effect on the character and appearance of the area. There is nothing to suggest that the policies of the development plan are out of date and there are no material considerations which would indicate that a decision other than in accordance with the development should be made. For this reason, I conclude that both appeals should be dismissed.

S J Lee

INSPECTOR

¹ See paragraph 17.