



Appeal Decision

Site visit made on 5 August 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2019

Appeal Ref: APP/P3040/W/19/3229537

4 Elm Tree Avenue, West Bridgford NG2 7JU

- 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 Sarah Howarth and Rob Hann against the decision of Rushcliffe Borough Council.
 - The application Ref 18/02270/FUL, dated 25 September 2018, was refused by notice dated 17 December 2018.
 - The development proposed is: construction of new dwelling in garden and construction of garage to serve existing property.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Correspondence from a third party has drawn my attention to a previous appeal decision for the site in December 2019¹. I therefore asked the Council to supply me with a copy of the decision and have taken it into account in my decision.
3. The Rushcliffe Local Plan Part 2 underwent public examination in 2018 and the Council has since consulted on proposed modifications. The Council does not refer to any policies in the emerging plan in its reasons for refusal but says that any policies which are not subject to modification should given considerable weight. However, the Council does not direct me to any specific policies in the emerging plan.

Main Issues

4. These are the effect of the development on:
 - i) the living conditions of the occupiers of neighbouring properties: and
 - ii) the character and appearance of the area.

Reasons

5. The proposal is to create a 2 storey, 3 bedroom dwelling within the space between no 4 and no 6 Elm Tree Avenue, currently occupied by a side garden, garage and outbuildings. The design of the proposed dwelling seeks to minimise its scale and massing in relation to the neighbouring properties and

¹ Appeal ref. APP/P3040/W/3210098 dated 10 January 2019

any effects on the occupiers of those properties. The scale and massing are also affected by the need to satisfy requirements in relation to flooding, therefore the ground floor levels would be set higher than existing ground levels.

6. The site boundary encloses the whole of the existing curtilage of no 6, and the proposal also includes a new single garage to serve that property. Two off-street parking spaces would be created to serve the proposed dwelling.

Living Conditions

7. The proposal would have some effects on the living conditions of the occupiers of no 4, currently occupied by the appellants. There are ground and first floor bay windows in the front elevation of no 4 close to the boundary with the proposed dwelling. At ground floor level the side wall of the proposal would project forward a significant distance beyond the bay window. At first floor level the projection would be less, and the plans indicate that a 45° line taken from the centre point of the bay window would not be infringed. Whilst there would be some loss of outlook and daylight, the property benefits from a generally open aspect and would retain a satisfactory living environment.
8. The relationship with the neighbouring property at no 6 would be different. The front part of no 6 has a mainly blank gable wall facing the proposed dwelling. There are attic windows in the gable but these are at high level and would be unaffected by the proposal. At first floor there is a rear facing bedroom window. In response to concerns about the effect of the proposal subject to the previous appeal on the outlook from this window, part of the first floor in the current proposal has been set back from the boundary so that a 45° line taken from the centre point of the neighbouring bedroom window would not be infringed. The effect on the outlook from this window would be acceptable.
9. To the rear of the main part of no 6 there is a 2 storey pitched roof projection and then a single storey lean-to, set in a short distance from the boundary. At ground floor level there is a side facing window serving a kitchen/breakfast room. There is a window in the lean-to part of the kitchen, although this is smaller than the side facing window and situated away from the breakfast area. A rear facing dining room window within the front part of no 6 looks out onto an area of decking between the rear projection and the boundary wall with no 4.
10. From the side facing window, the proposed brick faced side wall would be in view, and looking to the left the single storey sheet clad side wall of the proposed dwelling. Both would be set in around 0.9m from the boundary, on which an existing brick boundary wall would be retained or rebuilt. There are two possible concerns about the proposed relationship between the new dwelling and no 6.
11. The first is the potential for the proposal to have an overbearing effect on the occupier of no 6. Whilst the proposed presence of the 2 storey section of wall would suggest overdominance, this should be balanced against some benefit which would be gained from the reduction of the high brick wall of the garage of no 6, located alongside most of the boundary of the rear garden area, and the reduced height and depth of the proposal to the rear of no 6. According to the plans, there would also be 'hit and miss' timber fencing along some of the boundary where an outdoor terrace is proposed for privacy. Looking at the

position as a whole, the presence alone of the proposed dwelling alone would not reduce the living conditions of the no 6 to an unacceptable degree.

12. The second concern relates to daylight and sunlight. The appellants' assessment relates only to sunlight, and provides a comparison of the sun paths over the months of March, June and October, for both the existing situation and under the proposal, at 9am, 12 noon and 3pm. With reference to the kitchen/breakfast room, this suggests that at 9am in June there is presently sunlight entering the ground floor window, however this would not be the case were the proposal to proceed. At 9am in October, the assessment suggests that the window would not receive sunlight under either existing or proposed situations. In March, it is difficult to say conclusively from the sun path drawing whether the window would receive sunlight at 9am or not.
13. The neighbour at no 6 has submitted photographs which show that in April, the sun is at least visible from the side facing window between 7.30 and 8.30 am. Having regard to the photos it is clear that this would not be the case were the proposal to proceed. This evidence does not necessarily conflict with the findings of the sun path analysis. I have no overall assessment of what actual period the presence of morning sun within the kitchen/breakfast room would be affected. However, based on the evidence before me, it seems likely that the occupier of no 6 would suffer an appreciable loss of sunlight to the kitchen/breakfast room during some months of the year which would be harmful to living conditions to the occupiers. On daylight, no assessment has been provided. I therefore cannot reach a finding on whether the levels within the kitchen/breakfast area, with the presence of the second window, would be sufficient to avoid a situation where the loss of daylight would be appreciable, such that occupier would, for example, need to have lights on most of the time to overcome a lack of natural light.
14. To an extent the existing spacing between nos 4 and 6 is uncharacteristic of the urban location and the limited amount of sunlight and daylight enjoyed in the kitchen/breakfast room of no 6 may be atypical of similar properties in the area. I acknowledge also that the Council has reached a different conclusion regarding the effects on living conditions. However, these matters do not provide good reasons to override my concerns about the effect of the proposal on living conditions.
15. I therefore conclude that the proposal, as a result of its scale and massing on the boundary with no 6, would harm the living conditions of the occupiers of the neighbouring property contrary to Policy GP2 d) of the Rushcliffe Borough Non Statutory Replacement Local Plan² (the RLP) which seeks, amongst other things, to ensure that development does not give rise to significant adverse effects on the residential amenity of adjoining properties.

The character and appearance of the area

16. The site comprises part of the garden area of no 4 Elm Tree Avenue. Within the street there are a number of double and single fronted Victorian houses, some with attic storeys, a pair of 1930 semi-detached houses and a small bungalow of more recent construction. No 4 Elm Tree Avenue is a large double fronted, red brick property set back from the road, with a side garden between it and its neighbour at no 6. A particular feature of the street is the uses of bay windows,

² Adopted December 2006

arched door openings, and on some properties the use of arched windows at first floor. Overall, the character of the street is one of traditional red brick and tile houses, and there is a genuine sense of place.

17. The set back of the houses along the street gradually increases from the far end, where they are sited tight to the road, to almost the point at which the houses meet the backs of houses fronting Loughborough Road. No 4 is set back further than any other property, whilst no 2 returns closer to the road.
18. The focal point of the dispute between the parties is whether the design of the proposal is appropriate to its setting. The design is undoubtedly contemporary and would be perceived as a 21st Century addition to the street scene. It would be set back from the building line of no 6, and forwards of no 4, to fit in with the pattern of the street. Given the reduced scale and massing compared with its neighbours, or with the previously refused scheme, it would not dominate the street scene, but due to its modern design would draw attention.
19. Although the design is modern and seeks to address a number of parameters, it would achieve some visual compatibility with its surroundings. The roof and first floor would align with the first floor of no 6, and the use for the first floor bay window would be a subtle reference to the local context. A concern could be that the design of the front elevation would be perceived as overly horizontal in emphasis in comparison with its neighbours, however I find that the articulation of the front façade, including the use of brick, window and door openings of vertical emphasis, and the curved standing seam roof would provide a balanced appearance that would not jar with the surroundings. In comparison, the rear elevation has elements which give a distinct horizontal emphasis but given the aspect of that elevation towards the cricket field that would not cause any particular harm to the character and appearance of the area.
20. I therefore conclude that the proposal would not harm the character or appearance of the area, and would therefore comply with Policy GP2 of the RLP which requires, amongst other things, that development should be sympathetic to the character and appearance of neighbouring buildings and the surrounding area, and the Framework which promotes high quality in design.

Conclusion

21. Currently there is an interesting variety of houses and architectural details within the street, to which the proposal would contribute a contemporary, but not visually harmful, element. However, the proposal would result in unacceptable harm to the living conditions of the occupiers of the neighbouring property, no 6 and for that reason I find it to be unacceptable.
22. The appeal is therefore dismissed.

Tim Wheeler

INSPECTOR