



Appeal Decision

Site visit made on 19 September 2019

by Jamie Reed DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2019

Appeal Ref: APP/M2372/W/19/3233214

Newlands, 61 Manor Road, Darwen BB3 2SN

- 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 Sergio Arnone against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/19/0256, dated 17 March 2019, was refused by notice dated 20 May 2019.
 - The development proposed is demolition of existing garage and outbuildings to allow for construction/erection of a new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site has a planning history. Following three refusals of planning permission by the Council¹ for new dwellings on the site, a fourth application² for a residential annex was approved on 11 September 2017. The application which is before me is for a form of development that is of a similar appearance to this approved scheme² but is for a new dwelling, whereas the approved scheme² was for a residential annex.

Main Issues

3. The main issues are the effect of the development on;
 - the character and appearance of the surrounding area;
 - the living conditions of the occupiers of the existing dwelling on the appeal site, by way of privacy and disturbance; and
 - trees in the surrounding area.

Reasons

Character and appearance

4. The appeal site is situated at the end of a row of detached dwellings. A driveway to the side of the existing bungalow on the site leads to a detached double garage, located to the rear. This is to be demolished to make way for the proposal, which would comprise of a new dwelling. The ground floor of this

¹ Planning Application Refs: 10/15/0441, 10/16/0006, 10/17/0240

² Planning Application Ref: 10/17/0876

would be a double garage, similar to that which is already on site, with living accommodation on the upper floor.

5. A unifying characteristic of the properties on Manor Road is that they are positioned in a linear fashion along its length. All of the properties here front onto Manor Road and have private garden areas to their rear. The appellant has pointed out that the proposal is of a similar appearance to that which has been approved previously² and considers it to be of a similar character to the houses in the neighbourhood. He has also referred to the Darwen Character Study, wherein it states that in 'Individual Housing Streets' many houses of bespoke design are present. Whilst it is accepted that the proposed dwelling would be of a bespoke design, it would nonetheless introduce a standalone dwelling into a rear garden of an existing property. This would appear uncharacteristic within the context of the area and would be at odds with the linear pattern of street frontage development that currently exists.
6. Furthermore, the principle of using the proposed building as a standalone dwelling would also be uncharacteristic of the surrounding area and would be something quite different to a residential annex, which is what has been approved² previously. A standalone dwelling would be capable of functioning entirely independently, whereas a residential annex would have a level of reliance upon the main dwelling on the site. As a result, the potential amount of activity arising from the proposal would be far more intensive than that of a residential annex, where certain facilities would be shared between both buildings. Due to these differences, the proposal cannot be considered as being directly comparable to that which has already been approved. The proposal would therefore introduce an uncharacteristic form of development into the area that would create a harmful precedent for further dwellings in the rear gardens of this area. A diminishing in size of the rear garden would also occur and gardens of this size are also an important characteristic of this location.
7. For these reasons, I conclude that the proposal would be harmful to the character and appearance of the surrounding area. Consequently, the proposal would be contrary to Policy 11 of the Blackburn with Darwen Borough Council Local Plan Part 2 (LP) (2015). This Policy requires proposals to demonstrate an understanding of their wider context whilst making a positive contribution to the local area.

Living conditions

8. The proposal would be set further back than the previously approved scheme³ in order to create further separation between the proposed building and the existing bungalow on site. However, as the proposal would provide a standalone dwelling, as opposed to the residential annex that was previously approved, this would not result in a form of development where a satisfactory level of privacy would be able to be achieved. The proposal would be positioned in close proximity to the existing bungalow on site. This would result in the prospective occupiers being able to readily see inside the existing bungalow. This relationship would be further exacerbated by the Juliette balcony proposed at first floor level. These conditions would be harmful to the privacy of the occupiers of the existing bungalow by way of overlooking. The appellant has suggested that such harmful conditions could be mitigated against by installing obscure glazing. Such measures would however be harmful for the prospective occupiers of the proposal as they would be denied an acceptable outlook.

9. My attention has been drawn to an appeal³ which the appellant submitted in relation to a previously refused application⁴ on the site. In this appeal, the Inspector noted that the proposal would result in both the existing bungalow and the proposed dwelling having significantly smaller gardens than the neighbouring properties. However, this previous scheme was located in a different part of the rear garden area. As a result of utilising the land that is already occupied by the existing garage on site, the appellant now considers that sufficient garden space would be provided for two dwellings.
10. It was clear from my visit that it would prove difficult for two separate families to be able to reasonably use this garden space without being noticed by one another. Due to the layout of the site, it would prove difficult to sub-divide the garden area with fencing to form two separate spaces. Even if this could be achieved, the resultant garden areas would be small and uncharacteristic of the area. Such an arrangement would therefore clearly cause further harm to the levels of privacy currently afforded to the occupiers of the existing bungalow.
11. In addition to the above, disturbance would also arise from the additional vehicles that would come and go from the site to the proposed standalone dwelling. Whilst the appellant has asserted that such problems have not been raised in the past, it is nonetheless clear from the information before me that harm would occur as a result of such an arrangement. This would arise as a result of the close proximity of the proposed car parking spaces to the existing bungalow. The occupiers of the proposed standalone dwelling would be free to come and go as they please and would have to manoeuvre their vehicles in close proximity to the existing bungalow in order to exit the site. Activities associated with this, such as vehicle doors opening and closing, engines starting and the use of headlights in the evening would further add to the levels of disturbance to the occupiers of the existing bungalow. This situation would be different than if the entire site was being used by one family, as occupiers would be more understanding and tolerant of their other family members. Clearly, such conditions would be disturbing to the occupiers of the existing bungalow and would be harmful to their reasonable enjoyment of their property.
12. Consequently, whilst it may be reasonable for an annexed form of accommodation to be created on site, with one extended family living together, where required levels of privacy would not be as great and there would be fewer comings and goings; the same cannot be said for the standalone dwelling that is before me. This would clearly result in increased activity and demands on the site, as a result of it being used independently by two unrelated groups of occupiers. A higher level of privacy would be necessary in these circumstances as opposed to if it were just one family using the site.
13. I conclude that the proposal would be harmful to the living conditions of the occupiers of the existing bungalow on site, No 61 Manor Road, by way of disturbance and loss of privacy. Consequently, the proposal would be contrary to Policy 8 of the LP. This policy requires proposals to secure a satisfactory level of amenity for surrounding uses and for occupiers of the development itself.

³ Appeal Ref No APP/M2372/W/3188403

⁴ Planning Application Ref 10/17/0240

Trees

14. There are a number of trees close to the boundary of the appeal site which are also near to where the proposed dwelling would be erected. These are not protected by a Tree Preservation Order. The Council has raised concern that there is a possibility that the root protection area of these trees could be affected by the proposals, as no tree survey was submitted in support of the planning application. However, it is considered reasonable that such matters could be satisfactorily addressed by appropriate protection measures and foundation design. Additional trees could also be planted to mitigate any effects upon the existing trees. Such measures could be secured via the imposition of conditions in the event of the appeal being allowed. I therefore conclude that the proposal would be able to be constructed without causing an adverse effect on tree cover. Consequently, the proposal would accord with Policy 9 of the LP, which requires proposals to not have any unacceptable impact on environmental assets such as trees.

Other Matters

15. I have paid due regard to the family circumstances of the appellant and can understand how gaining consent for a single dwelling could assist him in financing the construction of a building for his family members to live in. These matters do not alter my conclusions on the main issues set out above, nor do they justify a decision other than in accordance with the development plan, which a standalone dwelling in this location would clearly conflict with.
16. Whilst I note the frustrations the appellant has experienced with the Council to date in dealing with this matter, this has not had any bearing on the decision I have reached in this appeal.

Conclusion

17. For the reasons set out above, I conclude that the appeal is dismissed.

Jamie Reed

INSPECTOR