
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: 6 November 2019

Appeal Ref: APP/P3040/W/19/3229690

Land South West of 98 Nicker Hill, Keyworth NG12 5ED

- 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 Bolton against the decision of Rushcliffe Borough Council.
 - The application Ref 18/02578/FUL dated 6 November 2018, was refused by notice dated 22 January 2019.
 - The development proposed is: a new build single dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new build single dwelling at Land South West of 98 Nicker Hill, Keyworth NG12 5ED in accordance with the terms of the application, Ref 18/02578/FUL, dated 6 November 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Bolton against Rushcliffe Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. On 8 October 2019 the Council adopted The Rushcliffe Local Plan Part 2 (RLPP2). I sought clarification from the Council on whether Policy GP2 of the Rushcliffe Borough Non Statutory Replacement Local Plan¹ (NSRLP) has been replaced by policies in the new plan. The Council has informed me that Policy GP2 is replaced by Policy 1 of the RLPP2, and that Policy EN13² of the NSRLP falls within the general principle of Policy 1. The Council does not direct me to any other policies in the RLPP2. I am satisfied that, Policy 1 of the RLPP2 covers the same matters relevant to the appeal as Policy GP2, and therefore have not sought further views from the parties.

Main Issues

4. The Keyworth Neighbourhood Development Plan 2014 – 2028 was adopted in June 2018. Policy H1 of the Neighbourhood Plan provides that applications for infill development, or on previously developed sites within the settlement boundary, will be supported subject to compliance with other Development Plan policies and the provision of suitable vehicular access and sustainable links to

¹ Adopted December 2006

² This policy is not referred to in the Council's reason for refusal or statement

shops and services. The Council does not refer to this policy in its reason for refusal and I take a similar view.

5. The appeal property (the site) is located within Keyworth, a large village to the south of Nottingham. Although the site address is Nicker Hill, a street comprising substantial dwellings with large gardens, the site itself relates more obviously to Mount Pleasant, an estate of mainly semi-detached houses.
6. The site lies at a point where Mount Pleasant takes almost a right-angled turn and comprises an area of vacant land to the rear and sides of nos 182 and 184 Mount Pleasant, to the rear of 98 Nicker Hill. The site could therefore be described as 'backland' but could be accessed through the gap between the 2 properties on Mount Pleasant. To achieve this the proposal involves the use of the existing driveway to no 184, with the front garden of that property given over for use as a parking area by the occupier.
7. The proposed dwelling would be 2 storey, with 4 bedrooms, a pitched roof and larch boarding and render walls. It would be located centrally within the plot with main windows orientated so as to avoid direct overlooking of the properties either side on Mount Pleasant. The Council does not suggest that the privacy of the neighbours would be harmed, or that proposal would be over dominant, or that it would be out of scale or character with the surrounding area, and I see no reason to take a different view.
8. The main issue is therefore the effect on the living conditions of the occupiers of neighbouring dwellings, in particular nos 182 and 184, due to the additional comings and goings of vehicles which would arise as a result of the proposed dwelling, and the noise associated with those vehicle movements.

Reasons

9. A plan has been submitted by the appellant showing that cars would be able to enter and leave via the drive for no 184, and would have sufficient space within the site to turn and leave in forward gear.
10. The comings and goings by car from the proposed dwelling would cause some disturbance to the occupiers of nos 182 and 184. The appellant has submitted a noise assessment which demonstrates that based on a typical number of vehicle movements per day for a residential dwelling, the noise disturbance would be within accepted guidelines³. The Planning Practice Guidance (PPG) has undergone revision since the preparation of the appellant's noise assessment, however the approach remains that the applicant should identify the likelihood that there will be any adverse effects on neighbours, including noise, and if so whether any mitigation would be required to make the proposal acceptable.
11. The noise assessment looks at the noise levels which would be experienced during the morning peak hour at the adjoining properties, both externally and internally with open windows and closed windows. It also looks at nighttime noise levels on the same basis. The predicted noise levels are within the standards set out in the guidelines. The report comments that the existing noise of traffic on Mount Pleasant reduces the likelihood that residents would be woken up by the noise of a car entering or leaving the proposed dwelling.

³ British Standard BS8233 2014
Planning Practice Guidance 22 July 2019

12. I am therefore satisfied that, in terms of noise disturbance, the proposal would not give rise to significant harm to the occupiers of the adjoining houses.
13. The front garden to no 184 would be sufficient in size to accommodate 2 vehicles, plus there is an existing garage. Although the space available to turn a car around on the drive would be limited, at the present time a car which has pulled onto the drive in forward gear would have no alternative than to reverse onto the road. Although some neighbours have concerns on this point, the proposed arrangement would not be unusual for such a property, and the highways authority has no objection on safety grounds.
14. The Council has referred in its statement to Core Strategy Policy 10 - Design and Enhancing Local Identity. The policy requires, amongst other things, that development should respect existing street patterns, have regard to impact on the amenity of occupiers or nearby residents, and scale and massing. The Council does not state that it is of the view that the policy is contravened. For the reasons given I consider that the proposal would conform with the requirements of the policy.
15. I therefore conclude on the main issue in the appeal that the proposal would not cause harm to the living conditions of the occupiers due to the additional vehicle movements that would arise as a result of the proposal, and the noise associated with that, and would therefore comply with Policy 1 of the RLPP2, which requires amongst other things that a suitable means of access can be provided which does not harm living conditions or highway safety, and the Framework which seeks to create places that are safe, accessible and provides a high standard of amenity for existing and future users.

Other Matters

16. Some parties have raised concerns that the proposed dwelling would be too large for the plot and out of keeping with the surrounding area. Whilst the proposal would be different in character from surrounding dwellings due to its detached form and set back from the road, it would sit comfortably within the plot and its design would complement the appearance of the area.
17. The proposed dwelling contains four 4 windows at first floor which could overlook the rear gardens of the neighbouring properties. The neighbour at no 182 is concerned that the privacy of a first floor bathroom window would be affected. The side facing windows in the proposed dwelling would serve en suites and would therefore be obscured glazed, and a condition could be attached to ensure that this does not change in the future.
18. A large birch tree that was formerly on the appeal site has been removed. There are some trees remaining along the boundary with no 184, and a condition requiring these trees to be protected during construction can be attached to ensure the future health of these trees.
19. There are concerns regarding flooding of the street and the potential for this to worsen as a result of the proposal. However, with an appropriate approach to the design of the driveway, to ensure that surface water does not discharge onto the highway, there is no reason why the development should add to these problems. I attach a planning condition to control this matter.

Conditions

20. I have used the Council's suggested conditions where appropriate. Where necessary I have edited them for conciseness.
21. In addition to the abovementioned conditions regarding obscured glazing, tree protection and the use of permeable materials to prevent increased flood risk, for certainty I attach the normal planning conditions limiting the period of the consent to 3 years and requiring the development to be carried out in accordance with the approved plans.
22. A condition is attached requiring the materials used to be only as specified in the application, in the interest of the appearance of the area.
23. In order to ensure that adequate provision is made for parking and turning, I attach a condition requiring the parking spaces within the site to be completed prior to occupation of the new dwelling, and that those to serve the existing property, no 184, must also be provided.
24. In the event that I reached a view that the appeal should be allowed, I sought the appellant's agreement to 2 planning conditions which would require details to be agreed with the Council prior to any development. One of these concerns the construction of the parking/turning areas including the identification of no-dig areas. The appellant responded that these areas are shown on one of the application drawings⁴. The approved plan specifies that the no dig areas of the driveway will be compliant with BS 5837:2012. I therefore sought the Council's view on whether there was any necessity for the condition. In the absence of a response from the Council on this point I see no reason to disagree with the appellant that the submitted plan and specification is sufficient to deal with the matter and do not attach a condition requiring the further approval of these details.

Conclusion

25. For the reason given, and taking into account all other matters raised, the appeal is allowed.

Tim Wheeler

INSPECTOR

⁴ Drawing no 2018-05-006 Revision 18 May 2019 Proposed Tre and Hedge Protection Area

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan REV 09 01 19; Proposed Plans and Elevations 2018-05-002 REV 06 11 18; Proposed Site Plan 2018-05-001 REV 09 01 19; Proposed Parking, Driveway and Access Plan 2018-05-005 REV 18 May 2019; Proposed Tree and Hedge Protection Area 2018-05-006 REV 18 MAY 2019; Design and Access Statement 98 Nicker Hill 29th October 2018.
- 3) Prior to occupation of the dwelling, the windows in the first floor side elevations of the proposed dwelling shall be permanently obscure glazed to Group 5 level of privacy, with top light opening only, and no additional windows shall be inserted in these elevations without the prior written approval of the Borough Council. Thereafter, the windows shall be retained to this specification.
- 4) The materials specified in the application shall be used for the external walls and roof of the development hereby approved and no additional or alternative materials shall be used.
- 5) Prior to the commencement of development the existing trees and/or hedges which are to be retained shall be protected in accordance with details to be approved in writing by the Borough Council and that protection shall be retained for the duration of the construction period. No materials, machinery or vehicles are to be stored or temporary buildings erected within the perimeter of the fence, nor is any excavation work to be undertaken within the confines of the fence without the written approval of the Borough Council. No changes of ground level shall be made within the protected area without the written approval of the Borough Council.
- 6) Before the dwellings hereby approved are occupied, the private drive access shall be constructed with provision to prevent the unregulated discharge of surface water from the driveway to the public highway. The provision to prevent the discharge of surface water to the public highway shall thereafter be retained for the life of the development.
- 7) Prior to occupation of the approved dwelling, provision shall be made within the site for a minimum of two parking spaces to serve the proposed dwelling, and space for the turning a vehicles. Two parking spaces shall also be provided to the front of 184 Mount Pleasant. Thereafter, the parking spaces shall be retained in accordance with the approved details for use by each property at all future times.

End of Schedule