



Appeal Decision

Site visit made on 21 November 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2020

Appeal Ref: APP/P1045/W/19/3237333

Rear of Sunnyside Terrace, Farley Hill, Matlock DE4 5LT

- 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 Mrs M Slack against the decision of Derbyshire Dales District Council.
 - The application Ref 19/00722/FUL, dated 17 June 2019, was refused by notice dated 21 August 2019.
 - The development proposed is a dwelling house – revised scheme to replace permission granted on appeal ref, 17/00809/FUL.
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Decision

1. The appeal is allowed and planning permission is granted for a dwelling house at rear of Sunnyside Terrace, Farley Hill, Matlock in accordance with the terms of the application, Ref 19/00722/FUL, dated 17 June 2019, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mrs M Slack against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the development on:
 - 1) the character and appearance of the area; and
 - 2) the living conditions of the occupiers of Sunnyside Terrace, with particular regard to outlook.

Reasons

4. This appeal concerns a new dwelling which has previously been granted planning permission on appeal¹. The site comprises an area of previously developed land at the rear of Sunnyside Terrace, which is in a countryside location on the edge of Matlock. The site is accessed via an access track off Farley Hill which is shared with neighbouring properties.
5. The appeal building is a dormer bungalow which is roughly L shaped in form. When I visited the site, the building was under construction. Although not completed, the walls, roof form and position of the window openings were

¹ Planning application ref 17/00809/FUL, Appeal ref APP/P1045/W/17/3189755

clearly apparent. This appeal has come about because the house has not been constructed in accordance with the approved plans.

6. The principle of the development has been established through the previous appeal. The key consideration for this appeal is, therefore, whether the additional footprint and height of the building, over and above that previously consented in application ref 17/00809/FUL, causes harm to the character and appearance of the area and to the living conditions of neighbouring occupiers on Sunnyside Terrace.

Character and appearance

7. In order to ascertain the difference between the approved plans and the dwelling as constructed, detailed measurements were taken by the Council in the presence of the appellant. The planning officer states in his report that the building is 0.4 metres wider and a further 1.7 metres in depth. The height of the building to the ridge has been increased by around 0.2 metres.
8. In addition to the above, the Council contends that the finished floor level of the building has been raised by up to 0.5 metres above the original ground level, so that there is an overall increase in height of 0.7 metres. The appellant has confirmed that the site has a slight slope towards the south and has said that the rear elevation will be approximately at previous ground level, but the southern (front) elevation the floor level will be about 0.35 metres above the original ground level.
9. Notwithstanding that, the finished floor levels were not specified in the approved plans and the need to ensure a completely level site would have been the same if the scheme had been constructed as originally approved. Any increase in the height of the building resulting from increased ground levels do not represent deviations from the permitted scheme. As such, I have given this matter limited weight in this appeal.
10. The Council is concerned that the increase in the height and massing of the building has resulted in overdevelopment of the site. I understand the frustration of the Council and third parties that the building has not been constructed in accordance with the approved plans. However, the additional height compared with the approved plans is 0.2 metres, which is not a significant increase. Any increased massing resulting from the slightly raised ground level at the front of the site would also have occurred under the approved scheme.
11. The increased dimensions of the elevations are also modest. I acknowledge that the building occupies a larger proportion of its plot than neighbouring houses, but sufficient amenity and parking space around the building are retained. Furthermore, the siting of the building has changed within the plot so that it is now slightly further away from the backs of the properties on Sunnyside Terrace. Although now closer to the stables, the difference in height, roof plane and materials mean that the house and stables would still appear as distinct buildings.
12. The site is in an elevated position within an open, rolling landscape, and the building is visible from a number of vantage points. However, the impact of the changes from the approved scheme are not significant in terms of the wider views. The house is seen within the context of the properties which

immediately surround it and does not appear out of scale with its setting. It sits comfortably within the site and is considerably lower in height than the properties on Sunnyside Terrace.

13. As well as the changes to the dimensions of the house, alterations are also proposed to the windows on the rear (north) elevation, specifically the substitution of two patio doors with a single folding door and a change to the design of the large first floor window. These alterations are minor in nature and do not significantly affect the character of the building.
14. I note that the previous Inspector removed permitted development rights for extensions and alterations, having regard to the extent to which the building would fill the site and the proximity of the dwelling to the rear boundaries of properties along Sunnyside Terrace. However, the removal of permitted development rights cannot be taken as an indication that the dwelling is not capable of being enlarged or changed in any way, only that any extensions or alterations which are sought would need planning permission.
15. The changes have not resulted in the development appearing unduly cramped, nor are they of such a scale that the plot has become overdeveloped. I therefore conclude that the proposal does not cause harm to the character and appearance of the area. It complies with Policies S1 and S4 of the Derbyshire Dales Local Plan 2017 which require that developments conserve the intrinsic character and distinctiveness of the landscape.

Living conditions

16. The development has resulted in a new building on what was previously open ground, which is a significant change to the rear outlook from these properties. However, the back gardens of the properties on Sunnyside Terrace are fairly long and the planning officer's report notes that the building was originally proposed to be some 23 metres from the main rear elevations and around 30 metres from the nearest windows.
17. The previous Inspector took account of the separation distances, the juxtaposition and orientation of buildings and the height of the proposed dwelling. She concluded that the adjoining properties or gardens would not suffer significant loss of light or overlooking.
18. The house has been constructed some 0.5 metres to the east of the approved plan so is slightly further away from the properties on Sunnyside Terrace and closer to the adjacent stable. Although the western elevation is around 1.4 metres longer and the building is slightly higher, these changes are minor in the context of the overall building, and the increased distance from the properties on Sunnyside Terrace will help to limit any additional effect. The extent of these modest changes does not alter the previous Inspector's findings on this matter, nor do they result in unacceptable harm by way of overbearing impact.
19. I conclude on this issue that the proposal does not cause undue harm to the living conditions of the occupiers of Sunnyside Terrace, with particular regard to outlook. As such it complies with Policy PD1 which requires that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects.

Other matters

20. Various comments have been made relating to other developments and planning decisions in the area involving the same appellant. However, I have not been provided with any details of these and their relevance to this case is unclear. I have determined this appeal on its own merits.
21. I am content that the information submitted is adequate and is sufficient to enable me to determine the appeal. The Council has measured the building on site and further on-site measurements are not necessary.
22. I note comments about the size of the building compared with the scheme which was granted outline planning consent in 2017², however that is of limited relevance following the subsequent grant of planning permission on appeal in March 2018. The principle of the development has already established including its compliance with national and local planning policy. I have found that the scheme now before me, which involves minor changes to the previously approved scheme, complies with relevant policy.
23. Comments have been made about flood risk and surface water drainage. The previous Inspector found no basis for concluding that the proposal would result in a risk to flooding and I have no reason to conclude that the revised scheme would differ in this respect. Drainage of the site will need to meet the requirements of Building Regulations and the relevant water company.
24. Concerns have been raised about the impact of the larger house on highway matters including the size of the turning area, access in and out of the property, and the number of cars which could be associated with the house. I also note comments about the potential for intensification of the use of the access track and associated concerns about highway safety and impacts on the amenity of neighbours. However, the principle of the residential use of the site has already been accepted and it is not clear how the modest increase in the size of the house would result in any additional highways impacts. A turning area is shown on the submitted plans which reflects that on the approved plan. I further note that the Council's highways officer did not object to the proposal.
25. I note comments that mature trees and vegetation have been removed but the landscape and drainage plan shows new planting within the site which would help to soften the development and help it to assimilate into the landscape.

Conditions

26. In the interests of certainty, a condition specifying the approved plans is necessary.
27. In order to ensure a satisfactory appearance, the previously approved scheme included conditions requiring details of materials, hard and soft landscaping and the provision of a bin storage area. The Council's planning officer has confirmed that the details submitted with the appeal proposal have addressed these conditions, which do not need to be re-imposed. I have, however, re-imposed condition 4 of the previous permission (now 3) which is concerned with implementing the hard and soft landscaping, and condition 7 (now 2) which requires the implementation and retention of the parking and turning area.

² Planning application reference 16/708/OUT

28. In the interests of the character of the area and to protect the living conditions of neighbouring occupiers, I have also re-imposed the condition removing permitted development rights for alterations and extensions to provide the Council with additional control over any future proposals.

Conclusion

29. For the reasons given, I conclude that the appeal should succeed and planning permission be granted, subject to the attached conditions.

R Morgan

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: MS.19.01; MS.19.02; MS.19.03 and the location plan submitted with the application.
2. The dwelling shall not be occupied until space has been laid out within the site for parking and turning in accordance with drawing no. MS.19.03, and that space shall thereafter be kept available at all times for those purposes and kept free from impediment to the designated use.
3. All soft landscaping shown on drawing MS.19.03 shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details shown on drawing MS.19.03 prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no external alterations or additions shall be made to the dwellinghouse hereby approved and no buildings, extensions, gates, fences or walls (other than those expressly authorised by this permission) shall be carried out within its curtilage without the prior written approval of the Local Planning Authority upon an application submitted to it.