



Appeal Decision

Site visit made on 29 January 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/Q3060/W/19/3239367
14 Toston Drive, Nottingham NG8 1DA

- 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 Robert Lloyd against the decision of City of Nottingham Council.
 - The application Ref 19/01197/PFUL3, dated 27 May 2019, was refused by notice dated 9 July 2019.
 - The development proposed is described as '3no Rear Dorma Roof lights to the rear of 14 Toston Drive.'
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues. These are a) the effect of the proposed development on the living conditions of existing neighbouring occupiers with specific regard to privacy; b) whether the proposed development would preserve or enhance the character or appearance of the Middleton Boulevard Conservation Area (MBCA); and c) whether the proposed development would maintain mixed and balanced communities.

Reasons

Living Conditions

3. The crux of the Council's concerns in respect of this main issue is that the windows contained in the proposed dormer additions would overlook the garden to the rear of No 18 Toston Drive, adversely affecting the privacy that occupiers currently enjoy. The appeal building is arranged at right angles to the siting of No 18, which is its immediate non adjoining neighbour.
4. Whilst the centre of the three proposed dormers would serve a bathroom and would therefore likely be obscure glazed, the outer two would serve bedrooms and in the case of one be the sole window into the room. These outer windows would indeed offer a clear and unobstructed line of sight into the garden of No 18 and result in a marked reduction in the privacy that users could reasonably expect. The effect would, to my mind, be exacerbated by the fact that the dormers would cover the majority of the width of the rear roof slope and thus give rise to clear views over the majority of the rear garden of No 18. Furthermore, the proximity of the dormers to the rear boundary would greatly

increase the feeling of being overlooked for occupiers of No 18, garnering an imposing and somewhat looming experience.

5. There is a low brick boundary wall between the rear gardens of the appeal building and No 18 which, I acknowledge, means that parts of the gardens to each dwelling can be viewed through each other's ground floor windows. There is therefore, as an existing situation, a degree of mutual overlooking. Be this as it may, this is a situation that could be addressed through planting or the erection of a taller boundary treatment. Such measures would unlikely be able to address lines of sight from windows in a first floor. Also, the impression of being overlooked can be exacerbated by the elevation of the windows offering the view. An impact that would be felt by users of the garden to No 18 regardless of any taller garden boundary.
6. With the above factors in mind, the proposed development would cause harm to the living conditions of existing neighbours through overlooking and a subsequent loss of privacy. This would accordingly result in conflict with Policy 10 of the ACS¹. This policy seeks to ensure that, amongst other things, new development will be assessed in terms of its treatment of the impact on the amenity of nearby residents or occupiers.

Character and Appearance – The MBCA

7. The appeal building is a semi detached bungalow amongst a group of two other pairs arranged in a horseshoe layout with a pedestrian only access running east from Toston Drive. A mirror image of the arrangement runs off Toston Drive directly opposite to the west. The appeal building, others within its group and the wider street scenes either side of Toston Drive form a designed garden estate of single storey dwellings of a largely uniform size, design and siting. Roofs are both hipped and gabled but their shape, span and size relative to the buildings they cover form a strong feature in the street scene, along with the use of light coloured textured render to the walls. With some exceptions, roof shapes also tend to be largely unbroken, most having roof windows as a result of loft conversions. The bungalows, both individually and as a group in terms of their layout, design and homogeneity make a positive contribution to the MBCA.
8. The dormers themselves would be relatively compact and through the use of a squat and wide profile they would reflect the strong horizontal emphasis of the building's floorplan, roof spread and fenestration generally. However, the number of them and subsequent cluttering of the characteristic unbroken roof forms would detrimentally affect the traditional shape and form of the building as a good example of its type.
9. As part of my site visit I noticed the dormer style addition to the adjoined neighbour and this would no doubt form some context for the appeal scheme. I also noticed dormer structures and roof alterations on other bungalows in and around Toston Drive. In one case there is a relatively wide addition to the street facing elevation of a dwelling in the horseshoe group opposite the appeal building and one visible from the rear garden of the appeal site. Be this as it may, such things appear as obvious later additions, some harmful in themselves. Ultimately however they are exceptions rather than the norm and thus not so significant that one would reasonably consider them a defining

¹ Broxtowe Borough, Gedling Borough and Nottingham City Aligned Core Strategies Part 1 Local Plan 2014

feature of the MBCA. I am also not aware of the circumstances of any planning permissions that exist for these additions if indeed they do. In any case, the erosion of designed character traits such as what has occurred through the addition of such roof alterations on other dwellings gives all the more support in my mind to resist inappropriate additions such as the appeal scheme in order to retain those features which define buildings within the MBCA. My conclusions here therefore remain.

10. The harm that would arise out of the proposed development would, given its scale in the grand scheme, be less than substantial. I am required to balance this harm, as per paragraph 196 of the Framework², against the public benefits of the proposal. The dormers would provide further internal space and a larger number of bedrooms which consequently may give rise to a higher occupancy to the dwelling, thus providing for more housing choice and mix locally. I am not however aware of any further public benefits and therefore, given the weight that the Framework states should be attached to the conservation of heritage assets (the MBCA in this case) I can only conclude that they would not be sufficient to overcome the harm that I have found.
11. As a result, the appeal scheme would fail to either preserve or enhance the character or appearance of the MBCA. It is therefore contrary to saved Policy BE12 of the Local Plan³ and Policies 10 and 11 of the ACS. Together, amongst other things and along with section 16 of the Framework, these policies seek to ensure that development preserves or enhances the character or appearance of Conservation Areas, protects the historic environment more generally and has regard to massing, scale and proportion.

Mixed and Balanced Communities

12. The Council's concerns in respect of this main issues appear to stem from how the alterations to the dwelling would emphasise its use as a House in Multiple Occupation (HMO) and the problems that such a use can lead to. They go on to state that the appeal building is within an area with a high concentration of such uses which, whilst not explicitly mentioned, appears to insinuate that there is already an imbalance when such tenure is compared to conventional family dwellings.
13. It seems from the evidence provided by both main parties that the existing dwelling is in use as an HMO, housing six people through three bedrooms on the ground floor and three bedrooms in the roof space. The aim of the appeal scheme is not to increase the occupancy of the dwelling but to improve the internal space of the bedrooms in the roof. I am mindful of the potential effects of the operation of the dwelling in amongst family dwellings, but I have not been provided with any figures setting out what the existing balance may be. A balance which, in any event, would not change should the appeal be allowed.
14. I understand the Council's concerns should a proposal for a larger HMO come forward for the appeal building but I equally have to appreciate there is not one before me. With this and the above in mind I do not feel this is a reason to withhold the granting of planning permission and accordingly do not find harm arising out of it. In regard to this main issue therefore, I do not find there

² The National Planning Policy Framework 2019

³ Nottingham Local Plan 2005

would be conflict with Policies ST1 of the Local Plan or Policy 8 of the ACS. Between them and amongst other things, these policies seek to ensure mixed and balanced communities and recognise the role housing tenure types can play within them.

Other Matters

15. I note there are already roof windows in the elevation of the roof the dormers are proposed which serve bedrooms. However, by their nature and angle of mounting, roof windows tend to give an upwards view from the rooms they serve and thus what can be seen out of them is inherently more restrictive than a window mounted on a vertical plane. In addition, I am not aware of the circumstances of any planning approval for the roof windows, if indeed any was required. In any case, the effect of the dormers on the privacy enjoyed by neighbouring occupiers is not the sole issue for my resistance of the appeal scheme as I have explained above.
16. The dormers proposed as part of the appeal scheme would be to the rear of the building and thus well screened from public view. Nevertheless, harm to an important feature of a Conservation Area might not always be limited to that which can be readily seen. Ultimately, and as I have explained, the proposed development would detrimentally affect a feature of the dwelling which contributes positively to examples of their type which are part of a designed estate of similar dwellings. One could legitimately argue that some harm arising out of the visual effect of the proposed development may be reduced by virtue of where it would be but that harm would still arise nonetheless. Harm which would be caused to a designated heritage asset, the conservation of which should carry great weight⁴.
17. The appellant also points out that there were no objections from neighbours regarding the scheme. Nonetheless, this does not absolve a decision maker from making an assessment of the scheme in terms of the living conditions of neighbours. Neighbours which may not always be those that are living at the affected dwelling at the time the proposed development is being considered.

Conclusion

18. Whilst I have found that there would not be any harm arising out of the proposed development in terms of mixed and balanced communities, this would be neutral in any balance. Accordingly, it would not be sufficient to reduce the harm or conflict with the development plan that would be caused by the proposed development adversely affecting the character and appearance of the area, the MBCA specifically, and the living conditions of neighbouring occupiers. It is for these reasons, whilst having regard to other matters that have been raised, that the appeal is dismissed.

John Morrison

INSPECTOR

⁴ Paragraph 193 of the Framework