



Appeal Decision

Site visit made on 20 January 2020 by Andreea Spataru BA (Hons) MA

Decision by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/A3010/W/19/3238685

164 Newcastle Avenue, Worksop, Nottinghamshire S80 1NG

- 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 Trevor Simpson against the decision of Bassetlaw District Council.
 - The application Ref 19/00154/FUL, dated 31 January 2019, was refused by notice dated 25 April 2019.
 - The development proposed is single storey dwelling with vehicular access at rear of Oak Cottage.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupiers of 164 and 'Jaklen', 162A Newcastle Avenue, with particular regard to noise, disturbance and loss of privacy.

Reasons for the Recommendation

4. 164 Newcastle Avenue is a detached, two storey dwelling located within the Worksop Conservation Area and within the setting of St. Anne's Church, St. Anne's War Memorial and Park Cottage, all of which are listed buildings. The property has a private drive to the front/side and a garden to the rear. The proposed dwelling, which would be a single storey building, would be located within the rear garden of No 164 and accessed off Newcastle Avenue via the existing driveway which would be altered and extended. A vehicle turning space would be provided to the front of the new dwelling along with off-street parking spaces.
 5. The extended vehicular access would be located in very close proximity to both neighbouring properties which have windows in the side elevations both at the ground floor and first floor level. Some of these windows serve habitable rooms. I note that the current occupier of No 164 intends to live in the proposed dwelling as a single occupier but given that the dwelling would be a
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substantial 3-bedroomed property, this would not necessarily be the case in perpetuity. Accordingly, the development would introduce new vehicle movements and additional activity in the form of comings and goings to the side and rear of No 164 and 'Jaklen'. Such movements would not be in the control of the occupants of the existing properties. In that respect, the side and rear windows and rear gardens of both properties would be exposed to general activity and vehicles passing and manoeuvring in close proximity resulting in the potential for harmful noise, disturbance and loss of privacy. The potential impact would be exacerbated during periods of darkness when occupants should reasonably expect a degree of tranquillity.

6. The proposal includes the construction of a 1.9m high close boarded fence along the boundary line with No 164, which would prevent overlooking of some windows but would be an oppressive feature in such close proximity to them. A hedge and other vegetation currently mark the boundary with 'Jaklen' and the appellant is willing to erect a 1.9m high fence on the drive side of the hedge, if required. However, having regard to the above, even for the modest scale of development proposed, the occupants of the properties to either side of the driveway are likely to experience unacceptable levels of noise and disturbance associated with vehicles and activity in such close proximity to existing windows and rear gardens.
7. I observed during my visit that Newcastle Avenue is a busy road, although there is no evidence about existing noise levels before me. Nor has there been an assessment of the effect of the impact of noise from the proposed development against such background noise levels. Moreover, giving my findings above, I do not consider that the noise generated by vehicles using the proposed drive would be negligible in terms of impact on the occupiers of No 164 and 'Jaklen'. I acknowledge that tyre noise could be minimised through appropriate materials for the driveway. However, this would not be sufficient to mitigate the harm that I have identified.
8. I acknowledge that it may be possible to create hardstanding for domestic outbuildings for use in association with No 164 within the rear garden without the need for planning permission. It is argued that four or more vehicles could use the drive, and this could potentially give rise to considerably more traffic than the proposed bungalow. However, domestic activity within the rear garden of the host property would not be directly comparable with the additional activity and vehicle movements associated with an unrelated new dwelling and its use in this location. Moreover, there is nothing before me to suggest that there is any reason or intention to create the hardstanding and/or outbuildings. Accordingly, I give this matter limited weight.
9. The Council found that the proposal would not have a harmful impact on the Worksop Conservation Area or the setting of the listed buildings. Given the scale and siting of the proposal, I am satisfied from all I have seen and read that it would have a neutral impact on the significance of these heritage assets and their setting. Accordingly, it would meet the requirements of S66 (1) and S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require me to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area and preserving the settings of the listed buildings.

10. Notwithstanding that, I conclude that the appeal development would result in significant harm to the living conditions of occupiers of neighbouring properties, with regard to noise and disturbance. Consequently, the development would conflict with Policy DM4 (v) of the Bassetlaw Local Development Framework Core Strategy and Development Management Policies DPD adopted 2011, which seeks to ensure that new development does not have a detrimental effect on the residential amenity of nearby residents. This policy is consistent with the core planning principle of the National Planning Policy Framework (the Framework), which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

11. The site is within an accessible location with regard to local facilities and amenities, and the development would contribute to the supply of housing, and specifically the supply of bungalows, within the area. Moreover, given its proposed design and layout, the bungalow would have the potential to provide specialist housing for elderly people. However, there is no mechanism before me by which the property would be retained as an elderly persons dwelling or would meet demand for self-build housing and this limits the weight I can give these matters as benefits of the scheme.
12. The development has been found acceptable by the Council in terms of visual amenity, highways safety, ecology and residential amenity, except for the issue addressed above. On the basis of the evidence before me, I have no reason to disagree. I also note that there have not been any objections from the Highways Authority or neighbouring residents. However, these are neutral matters rather than ones that carry weight in favour of the scheme.
13. Paragraph 10 of the National Planning Policy Framework, states that at the heart of the Framework is a presumption in favour of sustainable development. A high standard of amenity for existing and future users is a key element of sustainability as set out in paragraph 127 (f). In this case, given that the proposal would adversely affect the living conditions of the occupiers of No 164 and 'Jaklen' it would not constitute the sustainable development the Framework seeks to achieve. In addition, the limited benefits set out above do not outweigh the harm I have identified.

Recommendation

14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR