



Appeal Decision

Site visit made on 10 March 2020

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/Y2430/W/19/3241899

12 Brownlow Crescent, Melton Mowbray LE13 0QS

- 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 Andrzej Mazur against the decision of Melton Borough Council.
 - The application Ref 19/00954/FUL, dated 27 August 2019, was refused by notice dated 23 October 2019.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at 12 Brownlow Crescent, Melton Mowbray LE13 0QS in accordance with the terms of the application, Ref 19/00954/FUL, dated 27 August 2019, subject to the following 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: 032117/00, 19/00260/ENQG-01C and 19/00260/ENQG-02C.
 - 3) Prior to the first occupation of the dwelling hereby approved, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be completed before the use hereby permitted is commenced and shall thereafter be so maintained.
 - 4) Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015 or any subsequent amendment to that order, no development within Class A shall be carried out unless planning permission has first been granted for that development by the Local Planning Authority.

Procedural Matters

2. The description of development used in the heading above has been taken from the decision notice as the description used on the application form does not accurately describe the proposal but instead refers to a previous application.

3. The Council granted planning permission for an extension to the host dwelling in 2017 (Ref 17/00646/FULHH). At the time of my visit, a side extension was being constructed on site but was incomplete and I noted that it had an additional ground floor side window within it facing towards the host dwelling. As I cannot be certain that what has been constructed thus far is fully in accordance with the submitted plans, I have assessed the proposal as shown on the submitted plans rather than by assessing what has been constructed on site.
4. An amended Proposed Plans and Elevations plan has been submitted with the appeal (Ref 19/00260/ENQG – 01C). The amended plan removes the proposed first floor window from the west elevation of the proposed new dwelling. Although this plan was not before the Council when it made its decision and though no publicity has been carried out on it, having regard to the scale and nature of the proposed amendment, I do not consider that my acceptance of the amended plan at this stage would be prejudicial to any party. In reaching my decision I have therefore had regard to the amended plan and to the corresponding amended site plan (Ref 19/00260/ENQG-02C).

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of the host dwelling, 12 Brownlow Crescent having particular regard to outlook, privacy and light.

Reasons

6. The appeal site comprises a two storey end of terrace dwelling with a modest front garden and a reasonably large and long rear garden. As stated, planning permission was granted in 2017 for a two storey side extension to the host dwelling and construction works are currently taking place on site. The permitted extension projects beyond the rear elevation of the host dwelling, which contains a number of ground and first floor windows.
7. Although the rear elevation of the permitted extension and proposed dwelling extends beyond the rear elevation of the host dwelling in close proximity to it, at 2.5 metres the extent of the projection is not significant. Moreover, having assessed the outlook from the ground and first floor rear windows of the host dwelling, any loss of outlook from these windows would not be significantly harmful and a satisfactory outlook would remain for the occupiers of the host dwelling. Similarly, having regard to the overall size and length of the rear garden that would remain for the host dwelling, any loss of outlook from the garden would not be significant.
8. As stated, amended plans have been received which remove the first floor window from the western elevation of the proposed dwelling. Acceptance of the amended plan therefore overcomes the Council's objection to this aspect of the proposal and in addition there would no longer be any light overspill from this window.
9. Taking the above matters into consideration, I conclude that the proposal would not have a significant adverse effect on the living conditions of the occupiers of the host dwelling, 12 Brownlow Crescent having particular regard to outlook, privacy and light. It therefore accords with Policy D1(d) of Melton Borough Local Plan 2011 – 2036 adopted October 2018. This policy seeks,

amongst other things, to ensure that the amenity of neighbours and neighbouring properties is not compromised.

Conditions

10. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the approved plans to provide certainty and in light of the submission of amended plans. I have also imposed the suggested condition regarding boundary treatment to ensure that the plots are satisfactorily subdivided and in the interest of the character and appearance of the area.
11. With regard to the suggested condition removing permitted development rights for certain works, I have seen no specific justification for this condition and having regard to the nature and scale of the proposal and its relationship to surrounding development, I can see no justification for the removal of development permitted by classes B, C and E of the GPDO¹. However, the relative position of the proposed dwelling to the host dwelling and its rear projection means that I consider that the removal of Class A permitted development rights is justified as there is a real possibility that the exercising of these rights would be harmful to the living condition of the occupiers of the host dwelling.

Conclusion

12. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

¹ The Town and Country Planning (General Permitted Development Order) 2015