



Appeal Decision

Site visit made on 10 March 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/L2440/W/19/3238443

1 Church Nook, Wigston LE18 3RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Tony and Karen Martin against the decision of Oadby & Wigston Borough Council.
 - The application Ref 19/00176/COU, dated 15 April 2019, was refused by notice dated 12 June 2019.
 - The development proposed is described on the application form as 'change of use from existing annex to detached residential dwelling (1 X 1-bed)'.
-

Decision

1. The appeal is dismissed.

Planning context

2. Each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. Nevertheless the planning history to No 1 is relevant. This appeal follows an unsuccessful appeal in 2018 for a larger dwelling.¹ Of greater significance is that planning permission was granted in December 2018 for extensions to the garage between Nos 1 and 3a Church Nook and its use as an annexe.²
3. Condition 4 attached to the 2018 permission required that the annexe be used only for purposes incidental to No 1. Condition 2 required that the fencing running behind the rear elevation of the existing dwelling be removed, effectively preventing the physical subdivision of the plot. The appellants contend that condition 2 was unnecessary, with regard to the provisions of former policy 14 of the Core Strategy (adopted September 2010), on which basis its imposition was justified by the Council.
4. However this appeal is not under section 78(1)(a) of the Town and Country Planning Act 1990 as amended, which deals with appeals related to conditions. In any event the proposal is for the use of the previously permitted annexe as an independent dwelling. Some of the plot of No 1, and an existing outbuilding, would be incorporated within the new planning unit. The fencing currently to the rear of the host dwelling is intended to be retained.³

¹ Ref APP/L2440/W/18/3193739.

² Ref 18/00505/FUL.

³ Albeit that the fence now in place does not appear to align with that shown on plan RPD/DEC/2018/101/04 related to the 2018 permission.

Relevant policies

5. In this instance the development plan includes policies of the Council's Local Plan (adopted 16 April 2019, the 'LP'). LP policy 15 accords in-principle support to 'infill' in urban areas, provided that development would sit comfortably within its surroundings. Similarly, and more broadly, LP policies 6 and 44 seek to ensure that all development integrates appropriately with the existing character and appearance of areas, patterns of development, and prevailing levels of amenity.
6. The approach in those development plan policies aligns with National Planning Policy Framework paragraph 127, and is reflected in the Government's National Design Guide (notably in NPPF paragraph 127 bullets a), c) and d), and NDG principles C1, I1 and H2). The Council's Landscape Character Assessment (produced in 2005, reviewed in 2018, the 'LCA') is referenced in LP policies 15 and 44 as relevant evidence in determining the acceptability of a proposal.
7. The Council's Residential Development Supplementary Planning Document (adopted April 2019, the 'SPD') provides practical guidance as to how good design may be achieved in practice. Notably the SPD guides as to how infill development should, in scale, relationship to the street, and effects in respect of living conditions, fit in with existing character.⁴
8. The SPD acknowledges that there is some overlap between the considerations relevant to assessing residential extensions and outbuildings and infill development. However there are inevitably distinctions between the two. Notably there are permitted development rights for the alteration of dwellings and for the creation of outbuildings for incidental purposes, whereas specific permission is required for the creation of new dwellings.⁵

Main issues

9. Against the context above the main issues are (i) the effect of the proposal on local character and appearance, and (ii) whether or not the proposal would result in appropriate levels of outlook for the occupants of No 1 Church Nook.

Reasons

Character and appearance

10. No 1 is a two storey property occupying a corner plot by the junction of Church Nook and Boulter Crescent, close to the A5199 and Grade II Listed Church of St Wistan. No 1 appears Victorian in origin with subsequent alterations. Some nearby have commended the work the appellants have recently put into its renovation. Notwithstanding the proximity of Wigston town centre, No 1 falls within a predominantly residential area.
11. A small section of the south-facing elevation and roof of the annex are visible above a nearby wall and garage block next to it accessed via Boulter Crescent. Several three-storey blocks of flats of understated design are accessed via Boulter Crescent, the nearest of which falls on the opposite side of the road to

⁴ Paragraphs 3.82 to 3.87.

⁵ Under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, notwithstanding that certain changes of use to dwellings are permissible in some circumstances.

the appeal site beyond a communal parking area. However the appeal site and annex wrap around the south-eastern corner of the plot of No 1 and by consequence the annexe is mostly clearly visible from Church Nook.

12. Of differing ages, properties along Church Nook tend to be good-sized detached or semi-detached dwellings arranged in a conventional layout. Whilst set back from the road by different amounts, the principal elevations of most have a clear street presence. Plots are generally relatively spacious for a comparatively central location. I am, however, told that the rear garden to No 8 Church Nook, at about 62sqm, is relatively modest in that context.
13. The appeal site falls within Urban Character Area 'W(i): St Wistan's', as defined in the LCA. The LCA describes how Church Nook represents part of a small area where a more intimate and traditional 'scale and density appropriate to a small town centre' remains, in contrast to more intensive development elsewhere. The LCA also notes how the townscape around Boulter Crescent is 'very open' on account of the spacing around, and lack of landscaping between, blocks of flats. Those observations accord with mine.
14. As set out above, the proposal would make use of an existing building. The annexe as it stands is modest and not particularly prominent in the street scene. There is, I accept, some variety in the plot sizes of nearby properties. An internal floorspace of 41sqm as proposed would, for illustration alone, fractionally exceed the relevant minimum requirements in nationally described space standards (March 2015). Individuals will make an informed choice as to where to live, and that floor area, and external space of around 50sqm, may be acceptable to some.⁶
15. However the 62sqm garden to No 8 Church Nook is very much an exception to the prevailing layout (and, in any event, is over 20% larger than the outside space proposed here). I am equally told that the plot of neighbouring No 3a is around 640sqm, some 12 times that of the proposal. Moreover, as is also relevant in terms of outlook, the appellants contend that the flats along Boulter Crescent detract from their view. To argue in favour of creating a new dwelling with limited outside space, as the appellants note is the case of Boulter Crescent flats, is not a strong endorsement of the scheme. Furthermore, in marked contrast to the pattern of development nearby, the dwelling proposed would not have a clear street presence.
16. A dwelling in this location would, in all likelihood, result in an additional intensity of use compared with a building used as a residential annexe, including comings and goings and vehicular parking. In that context a dwelling of the design proposed would be incongruous, its plot out of keeping with the prevailing baseline, and its discordant presence exacerbated by an increased intensity of use. Whilst flats around Boulter Crescent have limited outside space, I have explained above how Boulter Crescent nevertheless has an open character and that the dwelling proposed would principally be perceived as part of the street scene along Church Nook.

⁶ Internal and external area figures taken from the supporting Design and Access Statement, noting that the latter meets the minimum recommendation under SPD paragraph 4.1.

17. Whilst I acknowledge the extent of visual change relative to the existing annexe would be limited, I have set out in paragraph 8 that there are inevitably difference contexts in which proposals for incidental outbuildings and new dwellings are assessed. Were this proposal to be considered on the basis of a clean site, the dwelling proposed would in scale, form and plot size bear no resemblance to prevailing character.
18. Although the appellants argue that the appeal site is surplus to their needs, that is a personal perspective and one which may not be shared by future occupants. That position also reinforces how different considerations apply to the creation of outbuildings and new dwellings; that the existing garage is argued to be superfluous is, at least in part, on account of planning permission having previously been granted for an additional detached garage.⁷
19. For the above reasons I conclude that the proposal would fail to integrate appropriately with the character and appearance of the area in conflict with the relevant provisions of the LP policies and elements of the NPPF cited in paragraphs 5 and 6 of this decision (having had regard to the LCA, SPD and NDG).

Living conditions

20. As set out above there is a fence to the rear of No 1 which is intended to subdivide the plot. The Council's officer report indicates that the fence is about 1m away from a rear-facing kitchen window, albeit that the appellants give figures in that respect of 1.35m or 1.42m. It is also indicated in the officer report that the kitchen window would be obscure glazed, however the origins of that suggestion are unclear; the appellants set out that would not be the case. The appellants explain that the fence was erected as, in their view, outlook southwards towards Boulter Crescent was 'harmful and injurious', and also that it is for individuals to determine whether outlook and privacy is acceptable.
21. However, irrespective of the precise measurement, the fence is very close to the kitchen window (which provides the sole aspect to that element of the property).⁸ At around 1.8 metres high and close boarded, I saw how the fence obscures almost all meaningful outlook southwards. Returning to my reasoning in respect of the prevailing layout of properties in the area, that is an atypically cramped relationship. It is moreover one that would result in an undue sense of being hemmed in and enclosed. Furthermore flats at Boulter Crescent are readily visible through first floor windows of the property, and the quality of their aesthetic is personal perspective. It is, by contrast, the purpose of planning to determine whether development is acceptable with regard to the public interest; individual occupants and their preferences invariably change.⁹
22. I therefore conclude that the proposal would fail to ensure appropriate outlook to occupants of No 1, in conflict with the relevant provisions of development plan policies and elements of the NPPF cited in paragraph 5 and 6 of this decision (having had regard to the SPD and NDG).

⁷ Via decision notice dated 19 July 2016, Ref 16/00257/FUL.

⁸ As shown on plan RPD/DEC/2018/101/04 related to the 2018 permission.

⁹ There is, moreover, no indication that the separation distance between Boulter Crescent flats and the outside space proposed is less than 22 metres (as recommended in SPD paragraph 3.36 so as to preserve an appropriate degree of privacy).

Other matters

23. I have noted the concerns raised by the appellants regarding the representativeness of the Wigston Civic Society.¹⁰ I have equally noted that the proposal has generated some local support. Nevertheless I have reached the findings above based on my independent planning judgement. I acknowledge that the NPPF is supportive of brownfield redevelopment and delivery from smaller sites, albeit not at the expense of ensuring a proposal is acceptable considered in its entirety.¹¹ Whilst the proposal would result in an addition to housing supply in the Borough, the benefits in that respect would be confined to an incremental numerical addition rather than in terms of quality. As such no other matters alter my reasoning regarding the unacceptability of the development proposed.¹²

Conclusion

24. For the above reasons, having considered the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow
INSPECTOR

¹⁰ Whose representations concern principally the adequacy of parking provision, which does not form part of the Council's case at appeal.

¹¹ As defined in Annex 2 to the NPPF.

¹² There is nothing to indicate that the Council are presently unable to demonstrate a five year housing land supply in accordance with NPPF paragraphs 67 and 73. Inherent in my reasoning above is that, even if such a supply were not in existence, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.