
Appeal Decision

Site visit made on 18 May 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2020

Appeal Ref: APP/N4720/W/20/3244979
658 King Lane, Moortown, Leeds LS17 7AR

- 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 P Jandoo against the decision of Leeds City Council.
 - The application Ref: 19/05825/FU, dated 18 September 2019, was refused by notice dated 2 December 2019.
 - The development proposed was originally described as a "new dwelling adjacent to No. 658 King Lane."
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Decision

1. The appeal is allowed and planning permission is granted for a dwelling to the garden at 658 King Lane, Moortown, Leeds LS17 7AR in accordance with the terms of the application, Ref: 19/05825/FU, dated 18 September 2019, subject to the conditions in the attached schedule.

Procedural Matters

2. The description of development in the banner heading above is taken from the submitted planning application form. The Council's decision notice describes the proposal as a "dwelling to garden" and a similar description is used on the appeal form. I have considered the appeal on this basis as it more satisfactorily describes the proposal and, accordingly, this is reflected in my decision paragraph above.
3. The submitted plans include drawing no. 2850/02 B. The list of plans contained in the Council's decision notice omits this revision number. It is dated prior to the Council making its decision and so I have considered it in my decision.

Main Issues

4. The main issues are (i) the effect of the proposal on the character and appearance of the area; (ii) whether it would provide acceptable living conditions for the future occupiers of the proposed dwelling and the existing occupiers of 658 King Lane (No 658) by way of the outdoor amenity space provision; and (iii) the effect on highway safety with regard to the proposed access arrangements.

Reasons

Character and Appearance

5. The appeal property is a semi-detached house with a large side garden area. It is located on the corner of King Lane and King Close. The nearest properties are of similar design and arrangement. The appeal property's side garden is uncharacteristically large in this context. It maintains an appreciable gap to the next properties, beyond the King Close junction. Opposite the site, there is a linear stretch of open space that runs for some distance alongside King Lane.
6. The proposed dwelling would be sited well off the side boundary with King Close. The area in between would be largely open in its form as it would contain the side garden, and car and cycle parking. As there would still be an appreciable gap up to the boundary, and as far as the spacing between the properties around the road junction contribute to the local character, this would not be unduly diminished. A not insignificant gap would also be maintained with the existing dwelling. Thus, it would not be a cramped form of development.
7. The appearance of the proposed dwelling in relation to the materials and detailing would be similar to the existing property and it would be also relatively modest in its proportions. As a consequence, and when the remaining gap up to the side boundary is also considered, it would not be obtrusive and overly prominent. It would appear, essentially, as an extension of the dwellings that already provide a continual pattern of development up to the site, and then beyond the road junction. The spatial character would largely remain.
8. The contribution of openness to local character largely depends on the expanse of the open space area adjacent to King Lane, rather than on street corners where the development is set back. The examples that I have been referred to in the vicinity of the site are not a defining characteristic to the same extent as the open space area itself. The positive contribution that the site makes in this regard is, thus, of a limited nature.
9. I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area. As such, it would comply with Policies H2 and P10 of the Leeds City Council, Core Strategy (as amended by the Core Strategy Selective Review 2019) (Core Strategy) which concern the contribution that greenfield land makes to the visual and spatial character of an area, high quality design and that development is appropriate to its context, amongst other considerations.
10. The Council has also referred in its appeal statement to Saved Policy GP5 of the Leeds Unitary Development Plan (Review 2006) in respect of character and appearance issues. The proposal would comply with this policy where it states that proposals should resolve detailed planning considerations, including design.
11. The proposal would also comply with the Council's Neighbourhoods for Living Supplementary Planning Guidance (2003) (SPG) where it concerns local character. It would also accord with the National Planning Policy Framework (Framework) on matters of sustainable development, in particular where it

involves contributing to protecting and enhancing the natural and built environment, and achieving well designed places.

Living Conditions

12. The existing outdoor amenity space for the occupiers of No 658 comprises the large side garden area, together with a smaller area to the front of the existing dwelling. The front garden area would be retained, along with the creation of a new rear garden. The proposed dwelling would have rear, side and front gardens.
13. The SPG also provides guidance on outdoor amenity space provision. The appellant has provided evidence that the level of provision for each dwelling would accord with the SPG, and this has not been disputed. The disagreement stems from the quality of the provision. In this regard, the SPG states that the design concept for a scheme should determine the quality, form and level of private space provision.
14. The Council are concerned that the outdoor amenity space of the proposed dwelling would be the subject of disturbance from vehicular movements. When such movements would pass the rear garden area, they would only be domestic related movements concerning the existing dwelling. As a consequence, they would be unlikely to cause undue disturbance. There is also no substantive reason why the location and shape of the garden areas would not enable these areas also to be properly utilised, as a whole. In addition, the appellant has indicated that screening through planting would be utilised. This would further enable the beneficial use of the garden areas.
15. As regards the proposed provision for the existing dwelling, its rear garden area would be bounded by vehicular movements only associated with that property. This area would directly abut the existing dwelling in order to allow ease of access for its use in what would largely be a conventional rear garden arrangement. The front garden provision would be similar to others along King Lane. For both the existing and proposed dwellings, the provision would be adequate and useable.
16. I conclude that the proposal would provide acceptable living conditions for the future occupiers of the proposed dwelling and the existing occupiers of No 658 by way of the outdoor amenity space provision. Hence, it would comply with Policy P10 and with Saved Policy GP5 which, amongst other considerations, are concerned with development that protects the visual, residential and general amenity of the area through high quality design, including useable space, and proposals avoiding a loss of amenity. It would also accord with the SPG with the proposed quality, form and level of private space provision.

Highway Safety

17. The proposed vehicular access to the new dwelling would utilise the existing access off King Close. It would be widened and it would also continue to serve the existing dwelling. Separate off-street car parking would be provided for each dwelling.
18. The Council has stated that landscaping within the visibility splay of the access should be no greater than 1 metre (m) in height. The landscaping in the splay is within the appellant's control and is agreeable to such a restriction, as is set

out in the appeal submissions. Drawings have also been provided which ably demonstrate how the visibility requirement could be achieved.

19. The Council has also made reference to a hedge being cut back or for it to be removed and replaced with a low wall or similar. This would not, though, be necessary to maintain the requisite visibility at the site access, if the landscaping is maintained at a height of no more than 1m. In any event, at the time of my site visit, the hedge appeared to have been removed. I am satisfied these visibility splay matters could be addressed through the imposition of a planning condition.
20. The proposed access arrangements would also allow for parking to take place off the shared access, which itself would be utilised to allow turning. The parking spaces would be readily accessible and it is not in dispute between the main parties that the number of spaces would be adequate to serve the dwellings. Such an arrangement would not be awkward and so it would not be likely to lead to an undue level of on-street car parking and associated congestion.
21. Interested parties have also raised safety concerns over the use of the King Close and King Lane junction. With the likely limited traffic generation that would result from one additional dwelling and with the appropriate visibility maintained at the site access, the proposal would be unlikely to lead to this concern. The same applies when refuse and emergency vehicles are considered.
22. I conclude that the proposal would not have an unacceptable effect on highway safety with regard to the proposed access arrangements. Therefore, it would comply with Policy T2 of the Core Strategy which concerns development which will not create or materially add to problems of safety, environment or efficiency on the highway network, amongst other considerations.
23. The proposal would also comply with the Framework where it concerns promoting sustainable transport, including where it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
24. The Council has also referred in its highway submissions to Saved Policy GP5. The proposal would comply with this policy where it involves resolving access as a detailed planning consideration and that proposals should maximise highway safety. Similarly, with regard to the Council's Street Design Guide Supplementary Planning Document (2009), it would provide safe movement for all street users.

Other Matters

25. Interested parties have raised a number of additional concerns related to living conditions, in particular light, privacy, noise and air quality. Due to the siting of the proposed dwelling, the separation distances to the nearest neighbouring properties would not be unreasonable in relation to light and privacy, also when the proportions of the dwelling are considered. As regards the effects on living conditions arising from vehicular movements, as I have set out, these would be from one additional dwelling and would not be unacceptable by way of noise

and air quality. Construction related impacts would likely be for a short duration only, with the size of the development.

26. In respect of climate change policy and the location of development, the proposed dwelling would be found in an accessible location to local services so as to encourage the use of transport modes other than the car. The Council has not pointed to any requirements in this regard. One additional dwelling would also be unlikely to have an unacceptable effect on the capacity of local infrastructure and the submitted details indicate that a mains drainage connection would be made. Based on what I observed, no trees would be impacted, notwithstanding what vegetation there may have been previously on the site.
27. Concerns raised in relation to condition of the existing house and over the demolition of the existing garage fall outside of what I can consider in a planning appeal decision.
28. That the site does not constitute previously developed land does not, in itself, preclude the proposal. Policy H2 states that new housing development will be acceptable in principle on non-allocated land provided that its criteria are met, including those for greenfield land. It falls for the matters of dispute to be considered on their merits, which in this case favour the proposal. As it accords with the development plan, housing land supply considerations do not have a significant bearing on my decision.

Conditions

29. In addition to the timescale for implementation, I have imposed a condition in relation to the approved plans for the purposes of certainty. The approved plans condition excludes the height of the boundary hedgerow as shown on those plans, for highway safety reasons.
30. I have also imposed conditions concerning details of the external materials in order to protect the character and appearance of the area, and relating to drainage matters in the interests of highway safety. Also, in the interests of highway safety and as I am satisfied that an acceptable visibility splay can be provided, I have imposed a condition concerning its details. For the same reason and for the purposes of providing satisfactory living conditions, a condition is also imposed concerning boundary treatment.
31. The Council also requested that permitted development rights be removed, in the interests of protecting living conditions. The Planning Practice Guidance advises that the removal of such rights should only be used in exceptional circumstances. Such circumstances do not apply in this case, based on the evidence before me. Hence, such a condition would not be reasonable and necessary. In other respects, I have based the conditions on those submitted by the Council in its appeal statement and where I have changed the wording, I have done so in the interests of precision.

Conclusion

32. For the reasons set out above and having regard to all matters that have been raised, the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2850/01 C, 2850/02 B, 2850/03 except in respect of the height of the boundary hedgerow shown on these plans.
- 3) No development of the external walls and roof of the proposed dwelling hereby approved shall take place until samples of the external walling and roofing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details prior to the occupation of the proposed dwelling and thereafter be maintained.
- 4) The building shall not be occupied until all areas shown on the approved plans have been fully laid out, surfaced and drained such that surface water does not discharge or transfer onto the highway. These areas shall not be used for any other purpose thereafter.
- 5) The development hereby permitted shall not be occupied until the visibility splay at the junction between the proposed access and the highway has been carried out in accordance with details that have been previously submitted to and approved in writing by the local planning authority. The approved visibility splay shall thereafter be maintained.
- 6) The development hereby permitted shall not be occupied until the boundary treatment has been carried out in accordance with details that have been previously submitted to and approved in writing by the local planning authority. The approved boundary treatment shall thereafter be maintained.