



Appeal Decision

Site visit made on 18 August 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 11th September 2020

Appeal Ref: APP/P2365/W/20/3252870

Newlyn, Course Lane, Newburgh, Wigan WN8 7LA

- 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 J Fairhurst against the decision of West Lancashire Borough Council.
 - The application Ref 2019/0935/FUL, dated 06 September 2019, was refused by notice dated 28 November 2019.
 - The development proposed is demolition of existing dwelling, erection of 3 no. detached dwellings and associated external works.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have adopted the site address from the appeal form in the banner heading above, in the interests of clarity.
3. In June 2020, after the application was determined and the appeal was made, the Council granted permission (ref 2020/0214/FUL) for a new 1.5 storey dwelling and detached garage, alterations and extensions to existing dwelling and associated external works.
4. In its reasons for refusal, the Council refers to impacts on protected species and their habitat. However, in its evidence to the appeal, the Council states that information submitted with the subsequently approved scheme was sufficient to address the reason for refusal. As I have a statutory duty to address the matter, I will return to it later in my decision.

Main Issues

5. Therefore, the main issues are the effects of the proposal on:
 - i) The character and appearance of the area; and
 - ii) The living conditions of the occupiers of the neighbouring residential property, Glenacre.

Reasons

Character and appearance

6. The appeal site is a detached single storey dwelling set back from the road in a generous plot that widens out to the rear of the property into a large grassed garden area with boundary trees and hedgerows. It is in a relatively densely

developed residential area in the village of Newburgh, and it has undeveloped land in the Green Belt to the rear.

7. The appeal property is sited close to the shared boundary with the neighbouring property, Glenacre, which is a non-matching single storey detached dwelling set back from the road on a similar building line to the appeal property. The other side boundary is shared with Rothmar, a 2 storey semi-detached property sited close to the road and separated from the appeal property by their respective driveways. Consequently, while there are coherent groups of properties and street scenes elsewhere in the settlement, the immediate area has a mixed character and appearance.
8. The proposal is the demolition of the existing dwelling and its replacement with a 2 storey property. In addition, there would be 2 matching 1.5 storey properties to the rear that would be accessed from Course Lane via a shared driveway adjacent to the boundary with Rothmar.
9. The 2 storey property would be in the same location as the appeal property. While its reduced footprint would result a slightly greater degree of separation from Rothmar, the building would be located within 1m of the boundary with Glenacre. By virtue of the narrow width of the plot at this point, and its excess height relative to the closely spaced neighbouring properties, the increased bulk of development would be prominent and conspicuous. It would not relate well to the surrounding built environment and it would not make a positive contribution to the street scene.
10. The properties to the rear would not be readily visible from Course Lane. However, they would be visible from locations to the rear including Tears Lane and Tabby's Nook. In respect of their size, siting and spacing, the dwellings would not appear significantly out of keeping in the wider context of the rears of the closely spaced properties along Woodrow Drive. However, the significant increase in the bulk and extent of hard development would be out of keeping with the more spacious and softer vegetated plots that provide the immediate visual context for the scheme.
11. Moreover, in combination with their external appearance and finish, the dwellings would appear markedly dissimilar and hence discordant and visually obtrusive in the townscape. I note that the appellant would be amenable to amending the external materials to an alternative more suitable colour. While this could be secured by planning condition, it would not overcome concerns relating to the incongruous increase in the extent of hard built development.
12. Therefore, the proposal would harm the character and appearance of the area. It would conflict with Policy GN3 of the West Lancashire Local Plan 2012-2027 Adopted October 2013 (the LP) in relation to high quality design that contributes to local distinctiveness. It would conflict with the aims of the Supplementary Planning Document Design Guide Adopted January 2008 (the SPD) in relation to spacing, massing and acceptable densities that respect the character of the area.

Living conditions

13. The proposed 2 storey dwelling would be within 1m of the shared boundary with the neighbouring property, Glenacre. While it would not be closer to Glenacre than the existing property, by virtue of the increased height of the

side elevation and the steeper pitch of the roof, the proposal would be considerably more conspicuous when viewed from Glenacre. Although the proposal would not be overbearing to the neighbouring occupiers when using their rear garden, it would be overbearing and it would result in a poor outlook from the facing habitable room window. It would also be likely to result in some loss of natural daylight to the habitable room window for parts of the day.

14. I note the suggestion that the proposal would not result in any greater impact on the occupiers of Glenacre than would a dormer extension to the existing property constructed using permitted development rights. However, while plans to illustrate a dormer were provided to the Council, no such plans have been submitted with the appeal. Even if permitted development rights are applicable at this site, there is little evidence to suggest that they would be exercised in the event that the appeal was dismissed. Therefore, this does not appear to be a genuine fallback position and I give it limited weight accordingly.
15. Therefore, the proposal would harm the living conditions of the residential occupiers of Glenacre, with particular regard to outlook and an overbearing form of development. It would conflict with the residential amenity aims of Policy GN3 of the LP and the SPD, with particular regard to overbearing.

Other Considerations

16. Although the evidence suggests that the appeal property has low potential to support roosting bats, no activity survey was carried out in accordance with the good practice survey guidelines. Therefore, the proposal does not demonstrate that adverse impacts on bats, a European protected species, or their habitat would be avoided. In its evidence, the Council states that additional information submitted with application ref 2020/0214/FUL does address the previous reason for refusal. This further information has not been provided with the appeal. However, while I have a statutory duty to address the matter, there is no need for me to consider the implications of the proposal on the protected species because the scheme is unacceptable for other reasons.
17. Planning permission ref 2020/0214/FUL is a fallback position at this site. Although each scheme must be considered on its own merits, it is nevertheless appropriate to consider whether the appeal scheme would be more harmful than the fallback. While full details of the approved scheme have not been provided, the evidence indicates that it would retain and extend the appeal property at ground floor level and there would be 1 new dwelling constructed to the rear. The approved scheme would not be overbearing to the neighbouring residential occupiers and it would be in keeping with the spacing and plot sizes of the adjacent properties. Therefore, it is not directly comparable to the appeal scheme and it does not justify a proposal that would result in conflict with the development plan.
18. My attention has been drawn to the Council's Local Plan Review, and specifically the preferred options consultation which included potential residential development in the Green Belt to the rear of the property. However, the preferred options have been withdrawn and there is nothing before me to suggest that the land to the rear would be developed. Therefore, this is not a matter that weighs in favour of the scheme.
19. On the basis of the evidence, there would be adequate parking provision and the proposal would not be detrimental to highway safety. There would be

adequate private outdoor space. Matters relating to drainage, and the protection and replacement planting for trees covered by Tree Protection Order, could be dealt with by planning condition. However, these are neutral factors that do not weigh in favour of the proposal.

20. The appellant engaged with the Council at the pre-application stage and I note that he would have considered reducing the height of the replacement dwelling in order to address the concerns of the Council. While I appreciate that he is therefore frustrated that the Council determined the application on the basis of the plans that were before it, this is not a matter that weighs in favour of the scheme.

Conclusion

21. For the reasons set out above, the proposal would conflict with the development plan and there are no material consideration that would outweigh that conflict. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR