
Appeal Decision

Site visit made on 8 September 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2020

Appeal Ref: APP/M1005/W/20/3255345

146 Loscoe Denby Lane, Denby, Ripley, Derbyshire DE5 8PP

- 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 Mrs Kim Severn against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2019/0450, dated 29 April 2019, was refused by notice dated 6 December 2019.
 - The development proposed is 2 no. 2 bed residential units.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has confirmed that it made its decision on the plans originally submitted with the planning application and that other amended plans which had been provided by the appellant were not subject to formal consultation with interested parties. This is consistent with their delegated report and the assessment of the proposed development that is set out within in. The amended plans are substantially different in that they propose dwellings of different designs and in different positions on the appeal site.
3. To proceed on the basis of the amended plans would be contrary to the 'Wheatcroft Principles'¹ in that it would deprive those who should have been consulted on the changed development of the opportunity of such consultation. Therefore, I must determine this appeal on the basis of the plans on which the Council made its decision and on which consultation was carried out. For the avoidance of doubt, these plans are 717.B2 and 717 B3.
4. The appeal site is located within the Green Belt. The Council considers that the appeal scheme would not represent inappropriate development in the Green Belt and I have no reason to take a different view.

Main Issues

5. The main issues are the effect of the proposed development on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of adjacent dwellings and the future occupiers of the proposed dwellings, with particular reference to outlook, privacy and light.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Reasons

Character and appearance

6. Development on the appeal site would be read primarily within the street scene that is formed by the dwellings on the same side of Grammer Street. These dwellings are positioned in a linear form with their front elevations facing towards the public highway and this is a key contributor to the character and appearance of the area.
7. Both of the dwellings proposed would be positioned so that their side elevations would face towards the public highway. Their principal, and much wider elevations, would be sited at a 90 degree angle to Grammer Street. Furthermore, the proposed dwelling labelled as unit 1 would be set substantially back into the site, immediately adjacent to the rear boundary with 144 Loscoe Denby Lane. As a result of these factors, the proposed development would appear incongruous in terms of its layout and positioning in relation to the street scene along Grammer Street. This would cause significant harm to the character and appearance of the area.
8. For these reasons, the proposal would fail to accord with Saved Policies LS3 and H12 of the Amber Valley Borough Local Plan 2006 (LP), where they seek to protect the character and appearance of areas. There would also be conflict with the Residential Development Supplementary Planning Document 2007 (SPD) which outlines the same aims, and with The National Planning Policy Framework (The Framework) where it seeks to achieve well designed places.

Living conditions

9. The proposed dwellings would fall short of the requirements of the SPD in some respects, including with regard to the distances between the dwellings themselves and the existing dwelling at 146 Loscoe Denby Lane. However, the shortfall in all instances would be minimal, and as a whole the proposed dwellings would provide a reasonable living environment for the occupiers of the proposed dwellings and not cause harm to the living conditions of the occupiers of the existing dwelling at No 146.
10. The proposed dwellings would however be positioned close to the common boundary with No 144. As a result of this close positioning and the massing of the proposed buildings, there would be harm caused to the outlook from the garden of this property and from a loss of light onto it. Whilst No 144 has a long rear garden, the addition of two buildings the size of which is proposed, so near to the common boundary, would nonetheless create an oppressive environment for users of the garden.
11. For these reasons, the proposal would cause significant harm to the living conditions of the occupiers of No 144 through a loss of outlook and light from and to their rear garden area. Consequently, the proposal would fail to accord with Saved Policies LS3 and H12 of the LP where they refer to safeguarding living conditions. There would also be a conflict with the SPD and The Framework where they seek to meet the same objective.

Other Matters

12. The proposal would provide two new dwellings however the overall benefits arising from a development of this scale would be limited, and they do not outweigh the significant harm that I have identified.
13. The Council makes reference to Paragraph 11d)ii) of The Framework. However, the limited benefits arising from the provision of two new dwellings would be significantly and demonstrably outweighed by the significant harm to character and appearance and to living conditions that I have found, both of which are matters that the policies of The Framework seek to protect. Therefore the proposal would not benefit from the presumption in favour of sustainable development, even if Paragraph 11d)ii) were to be engaged.
14. The appellant refers to other developments which they consider to be similar to the appeal proposal, but I have not been provided with full details relating to the circumstances of these. In any event, I must consider the appeal proposal primarily upon its own merits, and that is the approach which I have taken.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR