



Appeal Decision

Site visit made on 28 September 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2020

Appeal Ref: APP/N4720/W/20/3254741

19 Westroyd Gardens, Pudsey LS28 8JG

- 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 and Mrs Richard Thornton against the decision of Leeds City Council.
 - The application Ref 20/01121/FU, dated 18 February 2020, was refused by notice dated 1 May 2020.
 - The development proposed is a new detached dwelling with integral garage.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. These are:
 - i. The effect of the proposed development upon the character and appearance of the area, including an assessment of the effect of the proposed development upon nearby trees;
 - ii. Whether or not the proposed development would provide appropriate living conditions for future occupants, having regard to private amenity space; and
 - iii. The effect of the proposal upon the living conditions of the occupiers of No. 19, having regard to overlooking.

Reasons for the Recommendation

Character and Appearance

4. No. 19 is a detached dwelling situated in a large plot at the end of a cul-de-sac. There are significant land level differences within the surrounding area with the appeal site siting lower than the surrounding plots. The area is residential in character and there are a mix of dormer bungalows and more recent two-storey dwellings opposite the appeal site.

5. The appeal site and the garden area of No. 17 make a positive contribution to the area as they provide a sense of spaciousness and transition point between the residential built development and Green Belt at the rear. There are clear views from within the cul-de-sac to the mature tree belt at the rear and those trees form an important transition from the urban edge to the countryside. The dormer bungalows within the local area have a strong rhythm as they are equally spaced with a driveway, often leading to a garage, to the side, small garden to the front and main private amenity space to the rear. The newer development to the east of the appeal site also in general follows this pattern. They either have gaps to the side or driveways to the side which leads to a single storey garage stepped back from the front elevation which provides spacing between properties.
6. The front elevation of the new dwelling would have the appearance of a dormer bungalow which would reflect the local area. The retaining walls would be similar to the more recent built development at No. 16 and 18 Westroyd Gardens in that they would not be conspicuous from public vantage points. However, the new dwelling would appear cramped within the plot compared to the dormer bungalows within the surrounding area. The gap adjacent to the common boundary with No. 17 would be marginal and when viewed from Westroyd Gardens. The gap between the proposed dwelling and No. 19 would also be extremely limited as a result of its perpendicular relationship.
7. The dwelling would also be situated unusually close to the rear boundary with the main private amenity space being to the side. The proximity of the site to the rear boundary would be apparent from Westroyd Gardens given the height of the trees to the rear of the site. To the front of the dwelling would be both the parking area for the new dwelling and No. 19. Accordingly, the scheme would appear constrained within the plot and compromise the character of Westroyd Gardens on account of the siting of the property which would appear at odds with the established pattern of development.
8. There are numerous trees adjacent to the site which are subject to a group Tree Preservation Order (TPO) which runs adjacent to the disused railway line up to the rear boundary of the property. These trees are an important buffer between the built development area and the countryside beyond which is designated Green Belt land. Within the site there are also trees and various shrubs.
9. The Arboricultural Implication Assessment¹ (the AIA) highlights that tree group G1, which contains ornamental trees and fruit trees, would need to be removed to accommodate the proposed development. This group of trees is within the plot, and not subject to a TPO and could be removed at any point by the appellant. I concur with the findings of the AIA that these trees are of low amenity value and their removal would not cause undue harm to the character or appearance of the area.
10. The proposed dwelling would encroach the root protection area (RPA) of a semi-mature Leyland Cypress within the garden and potentially could have some impact on its future vitality. However, given the nature of the tree and its position tucked to the side of the existing dwelling, any harm or the loss of the tree would not have significant wider impacts.

¹ Reference AIA-1260-1, dated 27 January 2019

11. The dwelling would cut across the RPA of two of two protected trees which are closely adjacent to the boundary, a semi-mature Sycamore (T8) and a mature Goat Willow (T9). The AIA concludes that both can be retained but states that their loss would have a very limited impact on visual amenity. However, whilst the trees individually do not significantly contribute to the visual amenity of the area or wider landscape setting, they do collectively have a positive impact as part of the group TPO. Cumulatively the trees are visually prominent and make a positive contribution to the character and appearance of the area, particularly when viewed from Westroyd Gardens. As well as contributing to the character of the area they also provide habitat, carbon capture and rainfall interception.
12. Structures should be located outside the RPAs of trees to be retained, unless there is an overriding justification for the construction within the RPA². The appellants highlight that they could dig by hand in the RPA to minimise any harm to the trees. However, insufficient evidence has been submitted to demonstrate that using this method would ensure that the trees would remain viable, particularly with the degree of excavation required to accommodate the new dwelling.
13. Given the site's limitations, the rear elevation windows would be situated extremely close to the TPO trees. The Guideline Distances from Development to Trees (2011) (the Guideline Distances) sets out that where adjacent sites contain existing trees, it is expected that the distances recommended in the 'dimensions table' will normally be applied. The development would have a poor relationship with the existing trees close to the boundary, including T8, T9 and the large oak (T6) which would be situated around 4 metres from the garden boundary. It would also be approximately 11m from the proposed dwelling which is significantly less than the 20m guideline distances recommended.
14. Even though the TPO trees are located outside the appeal site, there could be pressure in the future to prune, lop, or possibly remove some of the trees, given the lack of distance between the trees and dwelling. Such pressure may be difficult for the Council to resist. Based on the evidence presented, replacement planting would do little to ameliorate the identified harm and it is likely that the scheme would have a harmful effect on protected trees surrounding the site.
15. At present the site is well screened from the public bridleway. Even accounting for the likely future pressures to remove or prune trees adjacent to the site, the relationship with the Green Belt, when viewed from the bridleway, would not be significantly altered given the dense tree coverage of the TPO group. Thus, I do not consider the scheme to conflict with Policies N24 and N25 of the UDP as I am not convinced that the dwelling would be conspicuous from the Green Belt.
16. Nevertheless, it is likely that future pressures to prune the trees would compromise the value, character and function of the adjacent TPO protected woodland given the proximity of the dwelling to the trees. Those trees presently make a significant contribution to the character of the area as part of the green backdrop to Westroyd Gardens. Harm to the trees or eventual loss of those trees closely adjacent to the boundary would therefore have a harmful impact on the character and appearance of the area in the local context. Even

² BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations

if the trees could be retained, the position of the dwelling would hinder views of the mature trees from within the cul-de-sac. That would lessen the amenity value of the trees and add to the harm caused by the cramped nature of the development.

17. For these reasons, I find that the proposed development would be visually harmful to the character and appearance of the area on account of the cramped nature of the layout and the impact on protected trees. Consequently, the scheme would conflict with Policy GP5 of the Leeds Unitary Development Plan (2006) (UDP), Policy P10 of the Leeds City Council Core Strategy (adopted 2014, amendments adopted 2019) (CS), Neighbourhoods for Living (2003) (NFL) and the National Planning Policy Framework (the 'Framework'). These policies and the Framework collectively seek, amongst other matters, to promote good design which is appropriate to its location.
18. The proposal would also conflict with Policy P12 of the CS and the Framework which collectively seek, amongst other matters, to ensure new development conserves and enhances the natural and local environment.

Living Conditions- Future Occupants

19. The Council are concerned that the new dwelling would not provide adequate usable private amenity space. The main parties disagree regarding the amount of amenity space that should be required, and the amount proposed. Nonetheless, the appellants do accept that the proposed amenity space would be less than that required, as set out in NFL.
20. Guidance within NFL states that as a general guide, private gardens for family homes should have a minimum area of two thirds of total gross floor area of the dwelling excluding vehicular provision. I broadly agree with the total gross floor area calculated by the appellants. It appears that the Council may have included the garage and the void below in their calculations.
21. Although the proposed garden space would be less than two thirds of the total gross floor area, this shortfall would only be marginally less than that required by the guidance document and space would be available for basic outdoor amenities and recreation. The garden size would be reasonable for the size of the proposed dwelling which includes two double bedrooms and one single bedroom/ study. In addition, as the site is located adjacent to the Green Belt, future occupiers could easily access open countryside.
22. For these reasons the proposed development would provide appropriate living conditions for future occupants, having regard to private amenity space. Accordingly, it would comply with Policies GP5 and BD6 of the UDP, Policy P10 of the CS and the Framework. These policies and the Framework, collectively seek, amongst other matters, to ensure new development provides a high standard of amenity for future occupiers.

Living Conditions- Existing Occupiers

23. Guidance within the NFL advises that a distance of 7.5 metres is required from a bedroom window to the front boundary. The proposal falls considerably short of this guidance distance due to the constraints of the site. The recommended distances are a guide and do not take into account site specific circumstances.

24. The proposed bedroom windows, to the front, would not directly face the principal elevation of No. 19 but would overlook the parking area of both the existing and new property, and the highway beyond. It is common for parking areas to the front of dwellings to be overlooked and thus, the siting of the dwelling and orientation of windows would ensure that the scheme would not result in an unacceptable loss of privacy.
25. Whilst not raised as an issue by the Council, the appellants have provided images to demonstrate that the new dwelling would also not result in significant overshadowing of the private amenity space of No. 19 or significantly reduce the amount of light reaching the property. I am satisfied that there would be no undue impact in that regard.
26. For those reasons, the proposed development would not have an unacceptable effect on the living conditions of the occupiers of No. 19. Accordingly, it would not conflict with Policy GP5 of the UDP, Policy P10 of the CS and the Framework. These policies and the Framework collectively seek, amongst other matters, to ensure new development provides a high standard of amenity for existing occupiers.

Other Considerations

27. The appellants have highlighted that there have been no objections to the scheme and numerous similar developments have been approved within the local area³. I do not have full details of the circumstances that led to these proposals being approved and each application must be determined on its own individual merits. In any event, these applications cannot be directly compared to the scheme before me as they relate to major developments rather than a new dwelling within the garden area of an existing property. The planning policy considerations differ between the scheme before me and those approved, and additional weight may have been given to factors such as housing supply. My conclusions relate to the very specific relationship between the proposal and its immediate surroundings and reference to other schemes does not lead me to alter my recommendation.
28. Policy G8 of the CS seeks to protect important species and habitats. No substantive evidence has been submitted to demonstrate that the scheme would seriously harm important species or habitats. Thus, the scheme would comply with this policy.

Conclusion and Recommendation

29. Although I have found that the development would provide appropriate living conditions for future occupants and it would not have an unacceptable effect upon existing occupiers, the scheme would be visually harmful to the character and appearance of the area and would have an unacceptable impact on the existing trees to which I attach significant weight. For those reasons, I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

³ References: 17/06965/FU, 11/02355/FU, 06/01130/FU, 20/01121/FU.

30. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be dismissed.

Chris Preston

INSPECTOR