
Appeal Decision

Site visit made on 13 January 2021

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2021

Appeal Ref: APP/N4720/W/20/3261470
378 Burley Road, Burley, Leeds LS4 2SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Khalid Malik against the decision of Leeds City Council.
 - The application Ref 20/03780/FU, dated 25 June 2020, was refused by notice dated 11 August 2020.
 - The development proposed is a new detached dwelling house.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development proposal subject to this appeal has been constructed and appears to be virtually complete. The structure appears to accord broadly with the plans submitted except that the front elevation appears to be slightly higher than shown on the plans and the rear elevation includes 2 windows at first floor level which are not shown in the plans. Furthermore, skylights shown on the plans do not appear to have been installed.
3. Notwithstanding the above, for the avoidance of any doubt, this appeal decision concerns the development as proposed in the application and accompanying drawings and not the structure that has been erected.
4. The dwelling was subject to an appeal against an enforcement notice served on 13 March 2020. That appeal was dismissed 23 September 2020.¹

Main Issues

5. The main issues in the determination of this appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of future occupants of the dwelling as regards garden space and the outlook from the first-floor bedroom; and
 - Whether sufficient space has been provided for off-street parking and the storage of bins.

¹ See Reference APP/N4720/C/20/3249825

Reasons

Character and Appearance

6. The site subject to this appeal is triangular and sits adjacent to Burley Road in Burley. A tall retaining wall sits towards the rear of the site although some of the land beyond this wall is understood to belong to the Appellant. Until quite recently the site accommodated a former lodge.
7. Burley Road is a main road leading to and from Leeds city centre, and this section is largely residential in character. Many of the neighbouring properties are traditional semi-detached dwellings with front gardens.
8. The proposed development comprises a 2-storey dwelling. The dwelling would include 2 bedrooms with one on the ground floor and another on the first floor.
9. The dwelling would sit close to another 2-storey dwelling which is understood to belong to the Appellant. This building is understood to have been completed in 2009.
10. The site is very small. The dwelling would be positioned very close to the pavement at the front but also very close to the retaining wall at the back. Effectively, it would be jammed into what is a very tight and inadequately sized space. The garden to the rear and side of the house would be very small.
11. As a result, the development proposal would look very cramped, uncomfortable and dominant. It would appear to be incongruous when seen in the context of the wider streetscene and would be discordant. This impression would not be changed by virtue of the tall building opposite.
12. Planning permission was granted by the Council in November 2019 for the construction of a single storey dwelling (19/02173/FU). That dwelling has a very similar footprint to the current appeal. However, the current proposal is taller than the approved November 2019 dwelling and so has greater bulk and presence.
13. Consequently, the proposed development would harm the character and the appearance of the neighbouring area. It would therefore fail to accord with Policy 10(i) of the Leeds Core Strategy (As amended by the Core Strategy Selective Review 2019) 2019 (CS) which seeks to ensure that new development is of an appropriate size, scale, design and layout to respect the surrounding area.
14. In addition, it would fail to accord with Saved Policies GP5 and BD5 of the Leeds Unitary Development Plan 2006 (UDP) which seek to ensure that proposals resolve matters of detail and that they do not harm the appearance of the area.
15. Furthermore, it would fail to accord with the advice set out in the Council's Neighbourhoods for Living Supplementary Planning Guidance (NFL) 2015 that new development should be of an appropriate scale and massing for the given context. Since the NFL SPG is quite recent and accords with the CS considerable weight should be attached to it.
16. Finally, it would fail to accord with the advice set out at Paragraph 127b) and c) of the National Planning Policy Framework ('the Framework') that development

should be well designed and respect the character and appearance of the surrounding area.

Living Conditions

17. The garden would comprise two very small areas connected by a very narrow gap between the rear corner of the proposed dwelling and the retaining wall. The gap would be just about wide enough to allow an adult to squeeze through. In effect, therefore, the tight gap would sever the 2 areas of garden space.
18. Advice set out in the Council's NFL states that gardens should be around 2/3 the size of the Gross Floor Area of the proposed dwelling. There is a significant difference between the parties as to the area of the first floor with the Appellant proposing a figure of 42 square metres. Given that the first-floor footplate is virtually the same as that for the ground floor – which covers about 100 square metres – the Council's figure, based upon a site inspection 22 January 2020, for the total Gross Floor Area of 180 square metres is to be preferred.
19. The area of garden to the rear amounts to around 20 square metres. In addition, there would be an area to the side which might be double that area, excluding the area for the driveway. Thus, the total area of garden would be considerably below that recommended within the NFL.
20. Furthermore, because the garden would be severed in two its usability would be significantly hampered. In effect, there would be two small gardens. Moreover, the garden to the rear would be largely overshadowed for much of the time reducing the level of enjoyment which occupants could derive from it.
21. There are parks and open spaces within the vicinity such as Elida Gibbs Park and Burley Bottom Park. However, these would not provide a satisfactory alternative to access to an adequately sized private garden.
22. The officer's report to the proposal approved in November 2019 considered that the garden was too small but compared it against what was available when the site was occupied by the lodge. However, that building has now been demolished and as such the comparison is no longer valid.
23. The rear bedroom on the first floor would have no side elevation windows. The floor plans show 2 skylight windows. These would not provide sufficient outlook for the occupants of the room.
24. For the reasons set out above the proposed development would not provide for the satisfactory living conditions of future occupants. It would therefore fail to accord with Policy P10(iii) of the CS which seeks to ensure that new development provides for the satisfactory living conditions of occupants including outlook and usable garden space.
25. Furthermore, it would fail to accord with Policies GB5 and BD5 of the UDP which seek to ensure that proposals for new development resolve detailed considerations and provide for satisfactory living conditions.
26. It would also fail to accord with the advice contained in the NFL that gardens should be about 2/3 the size of the gross floor area of the dwelling in size and should not be of an awkward shape so as to hamper the usability of the space.

27. Finally, the proposal would fail to accord with the advice set out at Paragraph 130f) of the Framework that new development should provide for a high level of living conditions.

Parking and Storage Provision

28. The proposed development would include space for 2 cars at the side of the dwelling. There would also be space for 3 bins on the other side of the dwelling close to the driveway to the adjacent dwelling.
29. The 2 parking spaces would occupy an area of around 25 square metres which would satisfy conventional requirements. Car ownership levels in this part of Leeds are below average suggesting that this level of provision might not be necessary in any event. The dwelling would also be located close to major bus routes.
30. There is no basis to indicate that the manoeuvring of vehicles to and from the parking spaces could not be performed without causing an unacceptable level of risk to other highway users.
31. The area for bins would be on the opposite side of the house to the front door but would be close to the back door. This is adequate for the purposes.
32. For the reasons set out above the proposed development would provide a satisfactory level of car parking and bin storage. It would therefore accord with Policy T2 of the CS and with the Council's Street Design Guide 2007 (SDG) which links the level of off-street parking provision to the scale of anticipated car ownership. Although quite dated the SDG accords with the CS and so should be given considerable weight. It would also accord with Policy P10 of the CS which advises that parking and bin storage provision should be integrated into the dwelling's design.
33. Finally, it would accord with Paragraph 109 of the Framework which advises that development proposals should only be refused on highway grounds where there is an unacceptable danger to other users.

Other Matters

34. The proposal is on a windfall site and would help to meet local housing supply need. It is also an infill site since there was a building on the site before.
35. Implementation of the planning permission granted in November 2019 for the construction of a single storey dwelling (19/02173/FU) would require removal of the first floor and of the existing roof. It is a very different scheme to that subject to this appeal and so does not constitute a fall-back position.

Planning Balance and Conclusion

36. The proposed development would provide adequate space for car parking and bin storage and would not result in any danger to highway users. This is a matter of neutral significance. As a windfall, infill site it would contribute to meeting the area's housing land supply which is a planning benefit.
37. However, because of the obvious geographical confines of the site, its bulk would cause significant harm to the character and the appearance of the area. Furthermore, because of the limited size and usability of the garden and the

restricted outlook from the first-floor bedroom it would fail to provide for the satisfactory living conditions of future occupants.

38. These identified harms would, when considered overall, fundamentally conflict with the Development Plan and the Framework and would clearly outweigh the benefit of using a windfall site.

39. For these reasons the appeal should be dismissed.

William Walton

INSPECTOR