



Appeal Decisions

Site Visit made on 02 February 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 24th February 2021

Appeal A, APP/P2365/W/20/3260818

10 Middlewood Road, Aughton, Ormskirk, Lancashire L39 6RG

- 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 E Lopez & Miss L Walker against the decision of West Lancashire Borough Council.
 - The application Ref 2020/0544/FUL, dated 30 June 2020, was refused by notice dated 9 September 2020.
 - The development proposed is Erection of a detached dwelling house and garage.
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Appeal B, APP/P2365/W/20/3261193

10 Middlewood Road, Aughton, Ormskirk, Lancashire L39 6RG

- 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 E Lopez & Miss L Walker against the decision of West Lancashire Borough Council.
 - The application Ref 2020/0663/FUL, dated 31 July 2020, was refused by notice dated 25 September 2020.
 - The development proposed is erection of a detached dwelling house and detached garage.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Preliminary Matters

2. As set out above, there are 2 appeals on this site. The schemes differ in terms of their siting, layout and size and they were refused for different reasons. Accordingly, I have considered each proposal on its individual merits.
3. In the case of Appeal B, the names of the appellants in the appeal form are not the same as the names of the applicants in the application form. Although the name of the appellant is normally taken from the planning application form, in this case the appellants' agent has confirmed that both appeals are proceeding in the names of Mr E Lopez and Miss L Walker.

Main Issues

4. The main issue in Appeal A is the effect of the proposal on the character and appearance of the area.
 5. The main issue in Appeal B is whether or not the proposal would provide adequate living conditions for future occupiers and the neighbouring residential occupiers of 2 Middlewood Road, with particular regard to privacy and outlook.
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Appeal A Reasons

6. No 10 is one of a pair of Victorian 2 storey semi-detached properties between Middlewood Road (the Road) to the east and the Town Green Station car park and railway line to the west. The pair are to the north west of the junction of Middlewood Close (the Close), deeply set back from it behind a triangular grass verge with tree planting. The appeal site comprises the side garden of No 10 and it shares a side boundary with No 2, which is a detached single storey dwelling in a triangular plot at the entrance to the station car park. The area has a mixed character and appearance arising from the irregular arrangement of roads and the wide variation in sizes, styles, ages and siting of buildings.
7. In contrast to other properties along the Road, Nos 10-12 face away from it towards the railway line and they present their tall rear elevations and 2 storey outrigger extensions to the street. However, the pair are set at an angle to the Road and they are widely separated from and deeply set back behind the ostensibly neighbouring properties to either side. In this regard, although not closely or well-related to dwellings on the Road, Nos 10-12 sit at the end of and they are aligned with the row of 2 storey properties on the Close that back onto the station car park.
8. The proposal would be oriented to match Nos 10-12, and hence the neighbouring row of dwellings along the Close. However, its front elevation would be roughly 5m forward of the rear elevations of Nos 10-12, which are themselves staggered forward of the front building line of the Close. Consequently, the proposal would be prominently sited relative to the immediately adjacent properties.
9. The proposal would have a ridge height to match the main 2 storey roof of Nos 10-12. Even so, by virtue of its prominent forward siting, it would appear conspicuously taller and larger than the appeal property rear outrigger and neighbouring single storey dwelling. I accept that there are tall, including 3 storey, properties elsewhere in the area. However, the immediate surroundings comprise the low level No 2, the verdant and relatively open land between the Close junction and the entrance to the station car park, the rear outrigger and modest 2 storey dwellings. In this context, the proposal would appear dominant and it would be visually obtrusive.
10. The proposal would not be sited forward of the prevailing building line of the Road. However, as it would be aligned with Nos 10-12, it would be at an angle to the dwellings that front onto the Road. Therefore, by virtue of its separation, size, siting and orientation, the proposal would not relate well to and it would not be read as a harmonious part of the Middlewood Road street scene. That it would be behind the building line would not mitigate the adverse visual impact, as the proposal would be read primarily as a prominent addition to the row of properties, including Nos 10-12, that extends along the Close.
11. Given the mixed property styles and materials in the surrounding area, the external appearance and design of the proposal would not be inappropriate in this area. Nevertheless, the combined effect of its height, scale and siting would be unsympathetic to its surroundings and it would not make a positive contribution to the street scene or the townscape. The rears of No 10-12, including large outriggers, are imposing and unusual in the street scene. However, the proposal would not function to integrate or soften the appearance of the rears of Nos 10-12. Rather, it would contribute to a noticeable increase

in the scale and bulk of hard built development with consequent cumulative adverse impacts on the street scene.

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 Development Plan Document Adopted October 2013 (the DPD). This requires proposals to have regard to visual amenity and to complement or enhance its surroundings through sensitive design, siting and scale. It would also conflict with the guidance in the Council's Design Guide Supplementary Planning Document Adopted January 2008 (the SPD). This requires, among other things, that development responds to its surroundings, in terms of scale and layout, and avoids disrupting the visual amenity of the street scene.

Appeal B Reasons

Living conditions of neighbouring residential occupiers

13. The proposed dwelling would be sited towards the rear of the plot and within perhaps 1m of the side boundary of the neighbouring property, No 2. It would be approximately 11m deep and, in order to provide habitable roof space, its ridgeline would be over 9m in height. Therefore, the large gable elevation would be visible for a considerable length above the shared boundary hedge.
14. The tapering shape of the neighbouring plot results in a disproportionately long road frontage with relatively little private outdoor space to the rear of No 2. In this regard, the most private part of the garden, and that is most used by the neighbouring occupiers, is to the side and rear of the dwelling adjacent to the shared boundary. The substantial bulk of the proposal, in close proximity and to the south of the shared boundary, would be dominant and overbearing and it would overshadow the garden. The adverse impact on the garden and rear of No 2 would be detrimental to the neighbouring residential occupiers.
15. No 2 is a low dwelling sited away from the side boundary and set at an angle to it. Nevertheless, by virtue of the proximity of the proposal to the boundary, there would be opportunities for overlooking from first floor side windows into the windows and garden of No 2. However, the proposal would be more than 12m from the neighbouring windows, which would accord with the guidance in the SPD in relation to acceptable minimum separation distances between main elevations and those that do not contain primary habitable room windows. Subject to the first floor side window being obscurely glazed and non-opening, there would be no overlooking or loss of privacy to habitable room windows or the garden of No 2. This could be addressed by condition.
16. Therefore, although the proposal would not result in a loss of privacy, it would harm the living conditions of the occupiers of No 2, with particular regard to overbearing and outlook. The proposal would conflict with Policy GN3 of the LP in relation to retaining reasonable levels of amenity for neighbouring occupiers. It would conflict with the guidance in the SPD, in relation to minimising overbearing and overshadowing by setting buildings in from common boundaries. It would conflict with the residential amenity and health and wellbeing aims of the Framework.

Living conditions of future occupiers

17. There are no first floor windows in the main side elevation of No 10 and the windows in the side elevation of the proposal facing the appeal property would

be obscurely glazed. Therefore, there would be no overlooking or loss of privacy between neighbouring habitable room windows. However, there are first floor facing windows, including the primary window of a habitable room, in the outrigger to the rear of No 10. This would allow the occupiers of No 10 to look directly down towards the patio area and the extensively glazed single storey rear elevation to the rear of the proposal. Consequently, the proposal would not provide adequate privacy for future occupiers of the proposal.

18. Plans have been submitted with the appeal to illustrate the removal of the first floor habitable room window in the outrigger and its replacement in the rear elevation. The small first floor outrigger window would be retained, but it does not serve a habitable room and it could be obscurely glazed. On this basis, I am satisfied that there would be no direct overlooking of the proposal from neighbouring habitable rooms. The parties agree that this could be addressed by condition, and I see no reason to disagree.
19. Therefore, subject to conditions to secure the removal of the window, the proposal would create a reasonable level of privacy and an adequate standard of living conditions for future occupiers of the proposal. In this regard, the proposal would not conflict with the residential amenity aims of Policy GN3 of the LP or the relevant policies in the Framework.

Other Matters

20. The Self-Build and Custom Housebuilding Act 2015 places duties on local authorities including in terms of maintaining a register of persons seeking to acquire self-build or custom-build plots, giving suitable development permission in respect of enough serviced plots of land to meet the demand on the register in each base period, and having regard to the demand when exercising its planning function. The evidence indicates that the proposal would be a self-build property. However, I am not aware that the appellants are entered onto the relevant register for the purposes of the Act and there is nothing before me to suggest that the Council has not given enough suitable development permissions to meet the demand on the register. Therefore, this matter carries little weight in favour of either appeal.
21. The Framework notes that small sites can make an important contribution to meeting the housing requirements of an area. Local planning authorities are advised to give great weight to the benefits of using suitable windfall sites within existing settlements for homes. In this case, the appeal site is in a settlement, in a residential area and it is in an accessible location in relation to services and facilities and public transport. Consequently, the location is suitable for new residential development.
22. There is no evidence before me that the Council cannot demonstrate a 5 year supply of deliverable housing sites. While that does not prevent further schemes coming forward, 1 dwelling would make a minimal contribution to the supply of housing. There would be a minimal contribution to the local economy during construction and the social and economic benefits from the occupation of 1 additional dwelling in this location would be similarly limited. Either scheme would be a benefit to the appellants, but there is little before me to demonstrate that similar benefits could not be achieved by alternative means such as would avoid the harm that I have found in both cases.

23. The evidence before me indicates that both Appeals A and B would meet the requirements of some policies in the development plan. Moreover, there are matters, including drainage and noise, that could be dealt with by planning conditions. However, proposals are expected to accord with local and national policies, such that this weighs neither for nor against either scheme.
24. The parties engaged with one another in relation to the applications subject of the appeals and earlier applications at this site. I acknowledge the appellants' frustration in this regard and their disappointment with the pre-application advice they received. However, as set out in the Planning Practice Guidance, pre-application advice cannot pre-empt the democratic decision making process in the event that a formal planning application is made and, if the level of service received fell below expectations, applicants may wish to raise the matter directly with the local planning authority.

Conclusion

25. I have found that Appeal A would harm the character and appearance of the area and Appeal B would harm the living conditions of the neighbouring residential occupiers of 2 Middlewood Road.
26. For the reasons set out above, both appeals would conflict with the development plan and there are no material considerations that would outweigh that conflict.
27. Therefore, Appeal A should be dismissed and Appeal B should be dismissed.

Sarah Manchester

INSPECTOR