



Appeal Decision

Site visit made on 23 February 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/L2440/W/20/3264054

32 Wigston Road, Oadby LE2 5QB

- 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 Parmjit and Kulwinder Singh against the decision of Oadby & Wigston Borough Council.
 - The application Ref 20/00184/FUL, dated 3 May 2020, was refused by notice dated 1 July 2020.
 - The development proposed is erection of proposed 2 x detached dwelling to include landscape and associated parking spaces and boundary treatment.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal on the planning application forms referred to the proposal being a resubmission of a previously refused scheme. Given these words are not a description of development I have removed them from the description in the banner heading of this decision.
3. On arrival at the previously agreed day and time, I was unable to gain access to the appeal site. However, I was still able to obtain a full appreciation of the surrounding context from Chapel Street including relationships with neighbouring properties. On this basis, I am content that I am in a position to assess the main issues and proceed with my decision.
4. Revised drawings have been submitted showing alterations to the internal layout of the dwellings with alternative window positions. Being mindful of the 'Wheatcroft Principles'¹, I consider that accepting these revised drawings would deprive those who should have been consulted from an opportunity to comment. I have therefore considered the appeal on the basis of the drawings that were before the Council when they determined the planning application.

Main Issues

5. The main issues are:
 - (a) The effect of the proposal on the character and appearance of the area;
 - (b) The effect of the proposal on the living conditions of occupiers of neighbouring residential properties with particular regard to outlook, light and privacy; and

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

- (c) Whether the proposal would provide acceptable living conditions for future occupiers of the development with regards to the provision of private outdoor space.

Reasons

Character and appearance

6. The appeal site is situated to the rear of the long rear gardens serving Nos 32, 34 and 36 Wigston Road and is accessible via a single-track access at the end of Chapel Street. The wider pattern of development on Chapel Street is varied in terms of building heights and layout. However, the density of built form gradually reduces towards the properties which face towards a cemetery. At Nos 17 to 35 Chapel Street there is general consistency in terms of the predominantly two-storey height of dwellings and their position set back from the highway. These factors combine to give a pleasant sense of space and order to this end of Chapel Street.
7. The evidence before me indicates that the appeal site previously formed garden land. The National Planning Policy Framework (the Framework) does not set out a general presumption against all development of residential gardens but states that plans should consider the case for setting out policies to resist inappropriate development, for example where development would cause harm to the local area. Policy 15 (Urban Infill Development) of the Borough of Oadby & Wigston Local Plan (LP) (2019) is consistent with the Framework insofar as it states amongst other things that any proposal for development on residential garden land will not be permitted unless it conforms to the guidance set out within the Council's Landscape Character Assessment and sits comfortably, is consistent with, in character with, and respects the direct street scene in which it is situated.
8. The levels on the site would be utilised to ensure the ridge height of the dwellings would be similar to those on the neighbouring dwellings at Nos 33 and 35 Chapel Street. Even so, the position of the development set substantively forward of the front elevations of the neighbouring row of dwellings would appear cramped and at odds with the general alignment of buildings to this end of Chapel Street. The bulk, mass and height of the blank brick side gable serving the dwelling on 'Plot 1' would present as a prominent, blunt and unappealing feature to this end of the street. A condition to ensure the materials used would complement other buildings in the area would not be sufficient to mitigate this harmful visual impact.
9. My attention has been drawn to other developments in close proximity to the appeal site. The neighbouring site, now occupied by the dwellings at Nos 33 and 35 Chapel Lane, is of greater depth than the appeal site and the dwellings are aligned with the neighbouring row of terraced dwellings on Chapel Street. With regards to the former Oadby Highways Depot, the pattern of development is different to the site-specific context of the appeal site. Therefore, I do not find these examples comparable to the appeal proposals.
10. I conclude the development would result in significant harm to the character and appearance of the area and would therefore not represent sustainable development. In that regard the development would conflict with the sustainable development and character and appearance requirements of Policies 1 (Presumption in favour of sustainable development), 2 (Spatial

Strategy for Development within the Borough), 6 (High Quality Design and Materials), 11 (Housing Choices), 15 (Urban Infill Development) and 44 (Landscape and Character) of the LP. For these reasons the development would also be contrary to the requirements of the Oadby & Wigston Borough Council Residential Development Supplementary Planning Document (SPD) (2019), the Oadby & Wigston Borough Council Landscape Character Assessment (LCA) (2018) and the Framework.

Living conditions of neighbouring occupiers

11. The front elevation of the neighbouring dwelling at No 35 Chapel Street includes clear glazed windows at ground and first floor level. The evidence before me indicates the two first windows serve the same bedroom. Even so, having regard to the close relative position and the extent to which the development would project forward of the front elevation of No 35, the height and mass of the side elevation of the dwelling on 'Plot 1' would be likely to have a dominating impact. This would be particularly the case when experienced from the closest neighbouring bedroom window on No 35. Furthermore, the orientation of the development to the south of this neighbouring dwelling has the potential to have a considerable overshadowing impact on the front elevation of No 35 for extended periods of the day. I have not been provided with any substantive evidence in the form of daylight or sunlight surveys to persuade me otherwise.
12. The separation distance between the first-floor windows on the rear elevations of the dwellings and windows and private outdoor areas serving some of the residential properties on Garden Close would be less than the recommended 22 metres (m) distance in the SPD. In the case of the dwelling on Plot 2, the evidence before me indicates that the separation distance at its nearest point would only be 18 m.
13. I acknowledge that the distances in the SPD are guidance, however, in this particular instance the shortfall in separation distances together with the proliferation of first floor windows, the position of the proposed dwellings on higher land relative to these neighbouring properties and the inclusion of additional windows in the roof space would be likely to combine to increase the perception of being overlooked. Consequently, these factors persuade me that the development would have an unacceptable impact on privacy for occupiers of these neighbouring properties. Even if there are examples of similar separation distances in the area, this does not convince me that the development would provide a high standard of amenity for neighbouring occupiers in this instance.
14. I conclude that the development would have an unacceptable effect on the living conditions of neighbouring occupiers with particular regard to levels of outlook, light and privacy. In those regards, the development would conflict with the requirements which seek to protect local amenity in Policies 6 (High Quality Design and Materials) and 15 (Urban Infill Development) of the LP. For the same reasons the development would also conflict with the SPD and Paragraph 127 of the Framework which amongst other things requires that developments create places with a high standard of amenity for existing and future users.

Living conditions for future occupiers

15. The evidence before me indicates that the rear gardens serving the dwellings would have minimum areas of 75.3 square metres (sq. m) and 81.2 sq. m respectively. Therefore, they would fall below the minimum 100 sq. m private rear garden spaces for 4 – 5 bedroom properties set out in the SPD. Even so, I am satisfied that the gardens would be of a regular shape and of a sufficient size to provide suitable private outdoor space which would cater for the day to day requirements of future occupiers including for example the provision of washing lines, bin storage and space to sit out. Therefore, not meeting the standards in the SPD would not result in unacceptable living conditions for future occupiers of the dwellings in this particular instance.
16. I conclude that the development would provide acceptable living conditions for future occupiers with regards to the provision of private outdoor space. In that particular regard the gardens serving the development would not conflict with the amenity requirements within Policies 6 (High Quality Design and Materials) and 15 (Urban Infill Development) of the LP or the Framework.

Other Matters

17. With regards to the main issues relating to the living conditions for existing and future occupiers, the Council's decision notice also refers to Policies 1, 2, 11 and 44 of the LP in the reason for refusal which encapsulates these matters. As these policies do not specifically include a specific reference to living conditions, they do not alter my conclusions in respect of main issues (b) or (c).
18. I also acknowledge the support in the Framework for making effective use of land and I have seen the evidence provided in respect of the proposed plot development ratio and the bedspaces and dwellings per hectare. However, whether or not the development would be of an acceptable density in more general terms does not persuade me that the site-specific harm that I have identified under main issues (a) and (b) would be acceptable.

Conclusion

19. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
20. The proposal would make a limited but positive contribution towards the supply of housing in the area and would generate a minor economic benefit through the development of the site. There would also be a modest social and economic contributions if occupants of the proposed dwellings were to use local facilities. Furthermore, I have found that suitable private garden space would be provided for occupiers of the development.
21. However, the above positive attributes need to be considered in the context that there is no substantive evidence before me to suggest that there is a shortage of deliverable housing sites in the Borough. Furthermore, I have found that the development would result in significant harm to the character and appearance of the area and would have an unacceptable effect on neighbouring living conditions. Collectively, these are matters to which I afford great weight and which tip the balance firmly against the proposal. To this extent the proposal would not deliver a sustainable form of development.

22. Therefore, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR