
Appeal Decision

Site visit made on 16 March 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2021

Appeal Ref: APP/R4408/W/20/3264228

4 Mount Crescent, Hoyland, Barnsley S74 0HG

- 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 Henry Petherwick (Henlin Ltd) against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2019/1340, dated 21 October 2019, was refused by notice dated 12 June 2020.
 - The development proposed is a new build 3-bedroom house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description in the banner heading above is taken from the Application Form. I understand the proposal originally included 3 bedrooms. However, this was reduced to 2 following amendments to the design of the proposal. While I have been asked to determine the appeal on the basis of the originally submitted plans, the Council's decision was made against the amended scheme and I shall proceed on the same basis.

Main Issues

3. The main issues are as follows:
 - The effect of the proposal on the character and appearance of 4 Mount Crescent and the local area;
 - The effect of the proposal on the living conditions of occupiers of No's 70 and 72 Hawshaw Lane with regard to privacy, and No. 4 Mount Crescent with regards to provision of outdoor amenity space.

Reasons

Character and appearance

4. No.4 Mount Crescent is a two-storey, semi-detached dwelling with garden areas to the side, front and rear. The design of the house is typical to the street, which is generally characterised by matching pairs of properties separated by generous gaps to either side. The proposal seeks to sub-divide the plot of No.4 and erect a two-storey dwelling with off-street parking in the gap between No's 4 and 6.

5. The Design of Housing Development Supplementary Planning Document 2019 (the SPD) advises new development must, among other things, respect local context and character, ensuring that proposed developments preserve or enhance local physical characteristics.
6. The proposal would significantly reduce the amount of space between the host property and No.6. These gaps add greatly to the spacious quality of the prevailing pattern of development in Mount Crescent. Furthermore, a detached dwelling in this location would be contrary to the established vernacular of semi-detached properties in the street. While I did observe one detached property nearby, this fronts Hawshaw Lane and is not read in the immediate context of the appeal site. As a result, the proposal would appear incongruous.
7. Moreover, the wedge shape of the new plot, which is wider at the front than the rear, would mean the property would be closer to the boundary with No.6 than No.4 and would appear contrived and cramped, highlighting the limitations of the plot. This would be compounded by the narrower profile of the proposal when compared to the surrounding pairs of semis.
8. On my site visit I observed many properties along Mount Crescent have inevitably been amended and altered. However, I do not consider that the porches and side extensions I have been made aware of are comparable to the impact of a new dwelling. Moreover, the use of landscaping and provision of off-street parking would not mitigate the harm to the character and appearance of the area I have identified.
9. I note the Council's concern that allowing the proposal would set a precedent which could make it difficult for decision makers to resist similar development in the future. Whilst each application and appeal must be treated on its merits, I can appreciate the Council's concern that the approval of this proposal could be used in support of such similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern. To that end, I observed on my site visit other opportunities, particularly on the appeal side of Mount Crescent, where a similar development could be proposed in these larger gaps. I consider that their individual and cumulative effect would exacerbate the harm that I have described above.
10. My attention is drawn to numerous examples of detached houses in areas of predominantly semi-detached dwellings. Other than photographs, I have limited information on any of these. As such, I cannot be sure of any similarities between these examples and the proposal before me. Moreover, these would have had their own site-specific circumstances which led to their approval. Regardless, their existence is not a strong enough justification to permit harmful development in this location while each proposal must be assessed on its own individual merits.
11. To conclude on the first main issue, the proposal would cause harm to the character and appearance of the host property and local area. As a consequence, there is conflict with Policies GD1 and D1 of the Barnsley Local Plan (LP), which generally seeks to ensure high quality design which respects local character. The proposal would also be contrary to advice contained in the SPD.

12. The conflict with Policies GD1 and D1 of the LP would further result in conflict with Policy H4 of the LP, which requires residential development on sites below 0.4 hectares to comply with other relevant policies in the LP.
13. I have also been directed to Policy H9 of the LP which resists development within the curtilage of larger dwellings, where it would have an adverse impact on the setting of the original dwelling and on the size of the remaining garden area.
14. The proposal would harm the spacious and open setting of No.4, removing much of its garden area to the side. However, the definition of 'larger dwellings' in the SPD includes dwellings with four or five bedrooms or capable of accommodating four or five without significant adaptation. No.4 has three bedrooms and I have not been provided with evidence that the layout of No.4 could be adapted to accommodate 4-5 bedrooms. Accordingly, the evidence does not demonstrate the proposal would be contrary to Policy H9. Nevertheless, this would not reduce the harm to character and appearance or overcome the conflict with Policies GD1, D1 and H4 of the LP.

Living Conditions of occupiers of No's 70 and 72 Hawshaw Lane and No.4 Mount Crescent

15. The SPD advises proposed habitable room windows at first floor level and above should be a minimum of 10m from the boundary of any private garden which they would face. I note the distance between the rear habitable room windows at first floor level of the proposed dwelling and the rear boundaries of No's 70 and 72 is disputed between the parties, although the appellant does concede that at its shortest point this distance falls below 10m.
16. I observed the rear of the appeal property to be relatively open, with no hedges or trees and only a fence dividing the rear garden of No.4 from No's 70 and 72. As a result, the first floor rear windows of the proposal would have clear views into the rear gardens of those properties to the rear. As such, there would be harm to the living conditions of occupiers of No's 70 and 72 with regards to privacy.
17. I am informed that the rear boundary of No.4 is less than 10m from the rear wall of the property. Be that as it may, the development of the appeal site in the context of the street as a whole would have significantly predated the SPD and the development plan and my assessment in this regard is made against the current guidance and policy position.
18. My attention is drawn to a dwelling approved by the Council under reference 2018/1496 which had a shorter distance to a shared boundary. I have little information on this development to compare it to the scheme before me. Regardless, each proposal is assessed on its own merits and the approval of another scheme does not alone convince me the proposal before me should be allowed given each would have their own site-specific circumstances.
19. Moreover, the sub-division of the existing appeal site would create two separate garden areas. I note in this regard the SPD advises rear gardens of proposed dwellings should be at least 60m² for three-bedroom houses.
20. The resulting garden area for occupiers of No.4 is disputed between the parties. However, even if I were to accept the appellant's higher estimate of 49.6m², even considering the removal of a fence, this figure would fall

significantly below the minimum required provision of garden space considering the scale of that dwelling. As a result, the garden area that would result would be unlikely to be large enough for a family sized dwelling and would harm living conditions of future occupiers of this property as a result.

21. To conclude on this second main issue, the proposal would cause harm to the living conditions of occupiers of No's 70 and 72 Hawshaw Lane with regards to privacy as a result of overlooking and No.4 Mount Crescent with regards to provision of outdoor amenity space. The proposal is therefore contrary to Policy GD1 of the LP. This policy seeks to ensure there would be no significant adverse effects on the living conditions and residential amenity of existing and future residents. The proposal would also be contrary to advice contained in the SPD.

Other Matters

22. The appellant has concerns over the Council's handling of the application. However, this is a procedural issue which does not concern the planning merits of the case. Accordingly, I have not attached any weight to this matter.

Planning Balance

23. The appellant's statement indicates that the proposal would constitute the development of a windfall site. I am also directed to Policy H6 of the LP which evidently desires a mix of house dwelling sizes, types and tenure. I have not been provided with a copy of this policy by the appellant.
24. The development of windfall sites is generally supported through both the National Planning Policy Framework (the Framework) and the LP. However, whilst all dwellings contribute to housing supply, in this case the delivery of one additional dwelling would only make a limited contribution to the existing stock. Furthermore, the Council states it can demonstrate a 5-year supply of deliverable housing sites which I have no reason to doubt. As such the benefits of the scheme in this regard are limited.
25. While the appellant does not dispute the Council's 5-year supply of deliverable housing, I am informed that the LP states that in order to achieve its targets this would require developing land in the Green Belt. To that end, the reuse of previously developed land should be encouraged where possible to reduce this requirement to develop in the Green Belt. However, the Framework is clear in excluding residential gardens in built-up areas as previously developed. As such this argument does not attract weight in favour of the proposal.
26. Moreover, I have found that the proposal would cause harm to the character and appearance of the local area and to the living conditions of occupiers of No's 70 and 72 Hawshaw Lane and No.4 Mount Crescent. The proposal conflicts with LP policies GD1 and D1 in these respects as well as H4 which requires residential development on sites below 0.4 hectares to comply with other relevant policies in the LP. These policies are consistent with the Framework in achieving well-designed places and ensuring there are no adverse effects on living conditions of present and future occupiers of proposed and nearby dwellings. This conflict is afforded substantial weight in this appeal.
27. Therefore, taking into account all these matters, the adverse impacts of the development would significantly outweigh the benefits when assessed against

the policies in the LP and the aims of the Framework. Consequently, the proposed development would not constitute sustainable development.

Conclusion

28. The proposal would harm the character and appearance of the area and the living conditions of occupiers of several neighbouring properties. As such it would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR