



Appeal Decision

Site Visit made on 20 July 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2021

Appeal Ref: APP/N4720/W/21/3273035

Land Adjacent 10 Dunhill Crescent, Halton, Leeds LS9 0EN

- 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 Tennant of Bluebell Homes Ltd against the decision of Leeds City Council.
 - The application Ref 20/04196/FU, dated 13 July 2020, was refused by notice dated 11 March 2021.
 - The development is the proposed construction of a pair of 2 bedroom semi-detached houses.
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Decision

1. The appeal is allowed and planning permission is granted for one pair of semi detached houses at land adjacent 10 Dunhill Crescent, Halton, Leeds LS9 0EN in accordance with the terms of the application, Ref 20/04196/FU, dated 13 July 2020, subject to the conditions in the attached Schedule.

Preliminary Matters

2. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published. The main parties have been given the opportunity to comment on it. I have taken the new Framework and any comments thereon into account in my decision.
3. The description of development in the banner heading is taken from the application form. The description of development used by the Council is "one pair of semi detached houses". I consider that this more accurately describes the proposed development, and it is the description that I have used in my decision.

Main Issues

4. The main issues are as follows:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development provides satisfactory living conditions for existing residents with regard to privacy of amenity space and future residents with regard to outlook;
 - the effect of the proposed development on the redevelopment potential of neighbouring land; and

- whether the proposed development provides the requisite amount of accessible housing.

Reasons

Character and Appearance

5. The appeal site lies in a mainly residential area. The dwellings have a relatively consistent building line, with front gardens facing on to the road enclosed mainly by low walls, with a number including railings above, or wholly by hedging.
6. The proposed development would have a consistent building line with no. 37, one of the adjacent dwellings. Given the nature of the road at this point it would be set back further than other dwellings on Dunhill Crescent, although there are some examples of dwellings with a larger set back from the road in the wider area.
7. Whilst some of the dwellings on Dunhill Crescent have parking areas or garages to the side, a number sit closer to the boundary with the neighbouring dwelling, with on-site parking provision to the front. Thus, the proposed hardstanding parking area to the front of the proposed dwellings would not be completely out of character with other properties in the vicinity, albeit the existing front paved areas are generally smaller than that proposed.
8. The proposed development would not meet the minimum distance set out in the Guide¹ of 2.5m between the side of the dwellings and their boundaries. However, it advises that these distances are a guide and other considerations in particular local character should be taken account of. The dwellings on Dunhill Crescent are on relatively small plots. Whilst there are some differences in the gaps between properties and their boundary, with some being greater than others, overall, the gaps would not be classed as generous. The gaps between the proposed development and the neighbouring dwellings would not be incongruous when compared to other properties in the vicinity and as such would not be out of character with the street scene.
9. Consequently, the proposed development would not represent over development of the appeal site such that there would an unacceptable effect on the character and appearance of the area. It would therefore accord with Policy P10 of the Core Strategy², which requires the size, scale, design and layout of new development to be appropriate to its context and respect the character and quality of surrounding buildings; the streets and spaces that make up the public realm and the wider locality. It would also accord with Policy GP5 of the UDP³ which seeks to avoid loss of amenity and environmental intrusion, and the design objectives of the Framework. Although there would be a shortfall in the separation distances of the proposed dwellings to their boundaries advised in the Guide, for the reasons given this would be acceptable.

Living Conditions

10. The proposed development would satisfy the advice in the Guide in terms of the overall garden space that would be provided. However, the garden length

¹ Leeds City Council Neighbourhoods for Living: A Guide for Residential Design in Leeds, 2003

² Leeds City Council Core Strategy (as amended by the Core Strategy Selective Review 2019)

³ Leeds City Council Unitary Development Plan (review 2006)

would fall short of the advice in the Guide, which states that there should be at least 7.5m from secondary windows, which includes kitchen and bedroom windows, to the site boundary, and at least 10.5m from main windows (living and dining room/areas) to ensure a reasonable outlook for occupiers.

11. Although there is a small shortfall from the distances recommended in the Guide, given the size of the gardens overall, this would not result in an unacceptable outlook for future occupiers, nor would the fact that the outlook to the rear beyond the garden would be over third-party land. It is not uncommon in relatively densely developed residential areas such as this to have some degree of outlook across third party land.
12. The site plan shows that the corner of the proposed development would be around 12m from the main rear elevation of 10 Dunhill Crescent but would be closer to its rear garden. The orientation of the proposed dwellings is such that views towards most of the rear garden of no. 10 would be at an oblique angle. In this regard I note that the indicative layout for the single dwelling with outline permission on the appeal site has a similar relationship with no. 10 in terms of its distance and orientation. Given the angle of view, the proposed development would not result in an unacceptable loss of privacy for occupiers of this property when in the rear garden.
13. As such, the proposed development would accord with Policy P10 of the Core Strategy and Policies GP5 and BD5 of the UDP and the design objectives of the Framework which seek to protect residential amenity. Although there would be a small shortfall in relation to the garden length advised in the Guide, for the reasons given this would be acceptable.

Redevelopment Potential

14. There are a number of properties in the area that overlook the former industrial land to the rear of the appeal site and have similar separation distances from this land as the proposed dwellings. Accordingly, the proposed development would not result in such a change to the surrounding area that the redevelopment potential of the industrial land would be materially affected. Consequently, the proposed development would accord with Policy P10 of the Core Strategy and Policy BD5 of the UDP, which seek to ensure that development is appropriate for its context and that adjoining uses are not prejudiced.

Accessible Housing Provision

15. Policy H10 of the Core Strategy sets out the accessibility standards for new dwellings. The Council states that one of the proposed dwellings should meet the requirements of M4(2) 'accessible and adaptable dwellings' of Part M Volume 1 of the Building Regulations. I note that the Accessible Housing Form completed by the appellant, dated 22 January 2021, indicates M4(2) compliance for both proposed dwellings. A suitably worded condition could secure the details required to demonstrate compliance with Policy H10 of the Core Strategy. Subject to such a condition, the proposed development would accord with this policy. It would also accord with the Framework which seeks to ensure that the needs of groups with specific housing requirements are addressed.

Other Matters

16. I note the concerns raised about the potential for additional on-street parking. However, the highway authority did not object to the proposed development and I am satisfied that sufficient off-street parking provision would be available. The proposed development would not therefore give rise to an unacceptable impact on highway safety due to a lack of parking.

Conditions

17. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework, and have amended the wording of certain conditions in that light (without altering their fundamental aims).
18. A condition requiring that the development is carried out in accordance with the approved plans is necessary in the interest of certainty.
19. In the interest of the character and appearance of the area, details of external materials and hard and soft landscaping are necessary. For the same reasons a condition requiring the replacement of planting is necessary.
20. It is necessary that, in the interest public health and safety, conditions are imposed that require the submission of a Phase II Site Investigation Report and remediation measures to be undertaken to ensure that any contamination is identified, risks assessed, and proposed remediation works are agreed. The carrying out of remediation works in accordance with the approved Remediation Strategy, and the subsequent submission of a Verification Report, is also necessary in the interests of public health and safety. The Phase II Site Investigation Report and details of any remediation measures are required prior to commencement of development to ensure that appropriate public health and safety measures are in place from the start of the construction phase.
21. In order to ensure the development does not lead to an increased risk of flooding on the site or elsewhere, conditions are necessary to ensure the development is carried out in accordance with the submitted drainage plan and that surface water does not drain onto the highway.
22. In order to ensure that the impacts of construction on the living conditions of existing residents and highway safety are minimised, a condition requiring details of the construction phase is necessary. It is required prior to commencement of development to ensure that the measures are in place for the duration of the construction phase.
23. In the interests of promoting sustainable travel choices, conditions requiring the submission of details of cycle parking and electric vehicle charging points are necessary.
24. In the interests of providing accessible housing for all, a condition is necessary to require the submission of an Accessible Housing Certification Table.
25. A condition withdrawing permitted development rights for the enlargement, improvement, or other alteration of the dwellings is necessary in the interests of protecting the living conditions of existing and future residents.

Conclusion

26. I have found that the proposed development would not have an unacceptable effect on the character and appearance of the area, the living conditions of existing or future residents or the redevelopment potential of neighbouring land. A condition would ensure the provision of the requisite amount of accessible housing. Therefore, for the reasons given above, I conclude that the appeal should succeed.

F Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20-034-1, 20-034-2 Revision E, 20-034-3 Revision E.
- 3) Development shall not commence until details of access, storage, parking, loading and unloading of all contractors' plant, equipment, materials and vehicles (including workforce parking) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to throughout the construction period for the development.
- 4) Development (excluding demolition) shall not commence until a Phase II Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority. Where remediation measures are shown to be necessary in the Phase II Report and/or where soil or soil forming material is being imported to site, development (excluding demolition) shall not commence until a Remediation Strategy demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Strategy shall include a programme for all works and for the provision of Verification Reports.
- 5) If remediation is unable to proceed in accordance with the approved Remediation Strategy, or where significant unexpected contamination is encountered, or where soil or soil forming material is being imported to site, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. The affected part of the site shall be agreed with the Local Planning Authority in writing. An amended or new Remediation Strategy and/or Soil Importation Strategy shall be submitted to and approved in writing by the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Strategy. Prior to the site being brought into use, where significant unexpected contamination is not encountered, the Local Planning Authority shall be notified in writing of such.
- 6) Remediation works shall be carried out in accordance with the approved Remediation Strategy. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The development shall not be brought into use until such time as all verification information has been approved in writing by the Local Planning Authority.
- 7) Construction of external walls and roofs to any building subject of this permission shall not take place until details and samples of all external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Samples shall be made available on site prior to the commencement of construction of external walls and roofs, for inspection by the Local Planning Authority which shall be notified in writing of their availability. The development shall be constructed from the materials thereby approved.

- 8) Prior to the commencement of construction works, details of electric vehicle charging points and cable enabled parking spaces to be provided shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to first occupation of the development hereby permitted and shall be retained as provided thereafter.
- 9) Prior to first occupation of the development hereby permitted, details of the hard and soft landscaping, including an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. Hard landscape works shall include (a) proposed finished levels and/or contours, (b) boundary details, means of enclosure and retaining structures, (e) hard surfacing areas, (f) minor artefacts and structures. Soft landscape works shall include (h) planting plans (i) written specifications (including soil depths, cultivation and other operations associated with plant and grass establishment) and (j) schedules of plants noting species, planting sizes and proposed numbers/densities. All hard and soft landscaping works shall be carried out in accordance with the approved details, approved implementation programme and British Standard BS 4428:1989 Code of Practice for General Landscape Operations. The developer shall complete the approved landscaping works and confirm this in writing to the Local Planning Authority prior to the date agreed in the implementation programme.
- 10) Any trees, hedges, shrubs or plants which within a period of 5 years from implementation are removed, uprooted, destroyed or die, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species in the same location.
- 11) Notwithstanding the approved plans, prior to first occupation of the development hereby permitted, details of the cycle store shown on plan 20-034-2 Revision E shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with the approved details prior to first occupation of the development hereby permitted and shall be retained as provided thereafter.
- 12) Prior to first occupation of the development hereby permitted, a post-construction Accessible Housing Certification Table containing the full details of the following matters shall be submitted to and approved in writing by the Local Planning Authority: which dwelling or dwellings within the development have satisfied the requirements of M4(2) 'accessible and adaptable dwellings' of Part M Volume 1 the Building Regulations 2010, (or in any provision equivalent to that Part in any statutory instrument revoking and re-enacting the Building Regulations with or without modification). The accessible dwelling or dwellings shall be provided in accordance with the approved details and shall be retained as provided thereafter.
- 13) The development hereby permitted shall be undertaken in accordance with the Survey Site Solutions Drainage Plan ref 1251 001 002 dated 07/12/2020. The works shall be fully implemented in accordance with the approved scheme prior to first occupation of the development hereby permitted and shall be retained as provided thereafter.

- 14) The development hereby permitted shall not be occupied until all areas shown on the approved plans to be used by vehicles have been fully laid out, surfaced and drained such that surface water does not discharge or transfer onto the highway. These areas shall not be used for any other purpose thereafter.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), planning permission shall be obtained before any development in Classes A, B, and C of Schedule 2 Part 1 of that Order is carried out to the development hereby permitted.