



Appeal Decision

Site Visit made on 28 September 2021

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday 02 December 2021

Appeal Ref: APP/N4720/W/21/3278821

33A Vesper Road, Kirkstall, Leeds LS5 3NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ingenious Property Refurbishment against Leeds City Council.
 - The application Ref 20/08628/FU is dated 23 December 2020.
 - The development proposed is described on the application form as extension and alterations to an existing bungalow and construction of a new house - resubmission application following 19/07689/FU.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The Council failed to determine the planning application within the statutory timescale. They have provided an Appeal Statement, and this sets out further detail on why the Council would have refused planning permission had it been able to do so. Whilst reference has been made to both the amenity of existing and prospective occupiers, the reasoning within the Council's Appeal Statement is focussed on the occupiers of the existing dwelling in relation to private amenity space provision and the outlook from a side-facing bedroom window. I have had regard to this and concerns relating to character and appearance in the main issues below.
3. Amended plans were submitted during consideration of the of the appeal application by the Council. This includes changes to the red line boundary on the Location Plan, Existing Site Plan and Proposed Site Plan. I have determined this appeal based on these plans.
4. A revised National Planning Policy Framework was published in July 2021 (the Framework). Whilst the paragraph numbers have changed in regard to those relevant to the main issues of this case, the substance thereof remains the same as the 2019 iteration. I have sought comments from the main parties and taken any comments made into consideration.

Main Issues

5. The main issues are the effect of the proposal on (i) the character and appearance of the existing bungalow and the area; and (ii) the living conditions of the occupiers of No. 33A Vesper Road, with regard to outlook and amenity space provision.

Reasons

Character and Appearance

6. The appeal property comprises of an existing bungalow which sits within a broadly triangular site. The area contains a range of dwellings, which vary in terms of their age, size, and styles. Within this variety, there are distinct groups of buildings with a similar mass and design features. This provides an element of cohesiveness which, alongside the setting back of properties, behind front garden and parking areas, contributes positively to the pleasant, spacious, character and appearance of the area.
7. The proposed dwelling would be situated in the side garden area of the existing bungalow. However, unlike the broadly rectangular footprint of the existing bungalow or other bungalows to the west that front Vesper Road, it would have an 'L' shaped plan and thereby would appear considerably wider than the existing neighbouring bungalows which have a narrow frontage. Its partial two storey height would also contrast with the single storey form of this group of buildings that the appeal site forms part of. I was able to see on the opposite side of the road the presence of a bungalow adjacent to a two-storey property. However, unlike the appeal proposal, those properties had a greater separation between them which ensured a better visual transition and resulted in the buildings sitting comfortably adjacent to each other.
8. I appreciate the dwelling seeks to take a contemporary form and I do not in this respect consider the materials proposed, or features such as the balconies, to be harmful in this location where a range of styles can be seen. Nevertheless, the height and form of the proposal would result in a dwelling with a noticeably greater bulk and massing than the nearby bungalows. Although it would be set back from the front of the site and the trees provide some screening from the side, it would be clearly seen from Vesper Road, where it would appear as a discordant form of development that would harm the character of the area.
9. The proposal also includes a front extension to the existing dwelling. This would project forward of the existing bungalow, but this property is set back from the neighbouring property at No. 35 Vesper Road and even after the extension sought as part of this appeal development, the extended dwelling would remain stepped back from this neighbouring property. The extended building would be finished in render, but the adjacent bungalow also has a rendered finish to the front. I do not therefore consider the siting of the extension or the use of this render material to be out of context with this group of properties. I was able to see the varied fenestration arrangements on the front elevations of this group of bungalows. Despite this variety, none of the properties had a centralised window, such as that proposed on the extension. This window would contain a blank panel which would hide an internal wall and appear as an obtrusive feature on the prominent front elevation of the building.
10. I therefore conclude that the proposal would have an unacceptable detrimental impact on the character and appearance of the existing bungalow and the area. As such, it would be contrary to Policies P10 and P12 of the Leeds Core Strategy (Core Strategy) and Saved Policies GP5 and BD6 of the Leeds Unitary Development Plan (Review 2006) (UDP), which requires proposals to, amongst other matters, provide high quality inclusive design that respects the character and quality of surrounding buildings. Other policies have been referenced by

the Council, but these are not relevant to this main issue as they relate to space and accessible housing standards or transport related matters. The proposal would conflict with Paragraph 130 of the Framework, which seeks, amongst other matters, development that is sympathetic to local character, and is also contrary to the Householder Design Guide Supplementary Planning Document (SPD) and Neighbourhoods for Living Supplementary Planning Guidance (SPG), which also advocate good design. A number of other guidance documents have been referenced by the Council, but they have not set out how these are relevant to this main issue.

Living Conditions

11. The extended bungalow would have a number of windows on its side elevations. Some of these are secondary windows or windows to non-habitable spaces such as a hallway. A bedroom would also be served by a side-facing window which would face a fence at close quarters. Although a close side-to-side relationship may be a feature of this group of bungalows that the appeal site forms part of, I am not aware of any bedrooms on other properties being served by a side-facing window only.
12. As this would be the only window serving this bedroom, the narrow separation to the boundary would result in a limited outlook from this bedroom window. My attention has been drawn to the SPD which states that a minimum of 7.5m separation should be maintained between a bedroom window and the boundary. I accept that the SPD as well as the SPG provide guidance only and it is often necessary to apply a degree of flexibility particularly on smaller infill plots. However, in this instance, given the very narrow separation to the boundary from the bedroom window, which the Council have referenced to be around 800mm, and the extent of the shortfall measured against the SPD guidance, I consider the development would result in oppressive living conditions for its occupiers.
13. The development would reduce the amenity space to the existing bungalow, which would have a private garden to the rear of the building. Reference has been made to the SPG which states as a general guide that family homes should provide private gardens of a size that is at least two thirds of the total gross floor area of the dwelling. The Council calculate this minimum as 56sqm but state that only 54sqm has been provided. The appellant has however demonstrated that the area to the rear of the existing bungalow and driveway, including the terrace and the area around and including the secure cycle store, but excluding the driveway and front garden, is well in excess of this minimum at 83sqm. I do not therefore consider that the resultant amenity space for the existing bungalow would be unduly small. In addition to it being adequately sized, it would have a broadly regular shape, providing a suitable space for sitting, hanging washing and other usual garden activities.
14. Nevertheless, I conclude that the development would have a detrimental impact on the living conditions at No. 33A Vesper Road, with regard to outlook. As such, it would be contrary to Core Strategy Policy P10 and UDP Saved Policy GP5 which are relevant to living condition matters. These policies seek, amongst other matters, to avoid problems of loss of amenity. It would also be contrary to the SPD, SPG and the Framework, which seek a high standard of amenity for existing and future users.

Other Matters

15. The existing and proposed dwellings would use a shared access that would lead to separate driveway areas for vehicular parking. The Council have raised concerns on the likely conflict if the occupiers of the two properties were arriving or leaving at the same time. I do not consider this would be a frequent occurrence and in any event, such an arrangement, where access is shared is not unusual on residential developments involving a limited number of dwellings. The submitted plan illustrate that both the existing and proposed dwellings would be provided with parking and I consider the development would be acceptable in respect of access and parking.
16. The Council have also raised concerns in relation to the Kirkstall Abbey Conservation Area. It is however common ground between the main parties that the appeal site is outside this Conservation Area and given the separation provided by the public footpath to the side of the appeal site and changes in land levels, I do not consider there would be any harmful impact on the Conservation Area.
17. The appellant states that the appeal application was a resubmission of an earlier refused application and was informed by discussions with the Council. Other matters during the life of the application were also raised, including the lack of engagement which led to this appeal. I also note the inconsistencies with advice provided by the Council previously. I am however tasked with determining the appeal on its planning merits and administrative matters such as these should be taken up with the Council.
18. The proposal would provide an additional dwelling in an accessible location which would contribute to choice in the housing market. In this respect it gains support from local and national policy. It would support the construction supply chain as well as the dwelling's future occupants contributing to expenditure in the local area. The Local Authority would also receive various revenue benefits. I would attach some weight to these matters but, even when taken together, they would be insufficient against the substantial weight I attach to the harms I have found and the subsequent conflicts with the development plan.
19. I acknowledge that the proposal would be acceptable in relation to neighbouring mature trees as well as not raising concerns on other issues such as ground conditions, contamination, drainage and other environmental matters. The site is also located in an accessible location, close to public transport connections and other services and facilities. The principle of a residential use has been considered acceptable and it appears from the plans that there would not be any harmful impacts in relation to the privacies of neighbouring occupiers. These are however neutral matters and not considerations which weigh in favour of the proposal.

Conclusion

20. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

F Rafiq

INSPECTOR