



Appeal Decision

Site visit made on 1 February 2022

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/N4720/W/21/3287832

Land at Plot 24, Wayside Mount, Scarcroft, Leeds LS14 3BG

- 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 Ltd against Leeds City Council.
 - The application Ref 21/03544/FU, is dated 22 April 2021.
 - The development proposed is described as "erection of 1 no. two-storey detached five bedroom dwelling".
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Decision

1. The appeal is allowed and planning permission is granted for erection of 1 no. two-storey detached five bedroom dwelling at land at Plot 24, Wayside Mount, Scarcroft, Leeds LS14 3BG in accordance with the terms of the application, Ref 21/03544/FU, dated 22 April 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are whether the proposal preserves or enhances the character or appearance of the Bardsley-cum-Rigton Conservation Area and the effect of the proposal on the living conditions of the occupiers of neighbouring properties and the appeal property with regards to outlook and privacy.

Reasons

Conservation Area

3. The appeal site is a plot of land located between two existing properties. The site also lies within the Bardsley-cum-Rigton Conservation Area (CA).
4. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Moreover, paragraph 199 of the National Planning Policy Framework (Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
5. The Bardsley-cum-Rigton Conservation Area Appraisal and Management Plan describes the key characteristics of the CA. It describes the area at the appeal site as early 20th century development including the 'set-piece' residential developments of Wayside Gardens... large detached buildings set in private gardens and each individually designed typify these areas. In my view the

significance of the CA in the area surrounding the appeal site is derived from the various architectural character and design of the buildings.

6. The proposal would be similar height to that of neighbouring property 26 Wayside Mount. With the bungalow of 22 Wayside Mount being to the south of the site, the Council are concerned with the lack of stepping down to allow transition. The built development in the area does not necessarily follow a transition of properties stepping down and given the appeal site and its surroundings are not on a significant incline, the proposal would not appear out of keeping with the existing built form.
7. The appeal site is of sufficient size to accommodate the bulk and massing of the proposed property ensuring that it would not appear as a dominating feature within the context of the existing street scene. The proposal incorporates some art and craft features and detailing which adds to the appearance of the area. The proposal has other design features such as its roof, balconies, fenestration and rooflights that differ from detailing on other properties. However, given the mixed architectural designs within the immediate area, the proposal would blend in with this varied character.
8. There are concerns that the proposal would be set forward of the properties either side however, it is noted that there is not necessarily a uniformed building line within the street with some properties being staggered. Therefore, the siting of the proposal would not have a detrimental effect on the building line of the properties in the street.
9. Due to the proposals design, scale, massing and position, it would not be an incongruous building that would adversely affect any open aspects of the surrounding area. It would sit comfortably within the existing built form and not be unsympathetic to the prevailing character of the immediate street scene of the CA or surrounding rural character.
10. The proposal would preserve the character and appearance of the CA. The proposal would be in accordance with Policies P10, P11 and P12 of the Leeds City Council Core Strategy (CS), Policies GP5, BD5, N19 and N37A of the Leeds Unitary Development Plan (UDP), Policies H1, H4, LRE1 and BE1 of the Bardsley cum Rigton Neighbourhood Plan (BCRNP) and the Framework which seeks development to not harm open aspect, reflect its surroundings, conserve rural character and preserve or enhance the character and appearance of conservation areas.

Living conditions

11. The proposal would be located some 7.5 metres from the rear boundary of the site which is below the standards set out in the Leeds City Council Neighbourhoods for Living document (NFL). However, the width of the proposed rear garden would be substantial, allowing for sufficient private and useable amenity space for future occupiers. The kitchen, dining, living room proposed at ground floor would have windows facing the front and rear of the property and therefore this room would have adequate outlook.
12. The proposed property would be located over 20 metres from the rear of the neighbouring property to the east which ensures the occupiers of this property would not be adversely compromised in terms of loss of privacy to the rooms of the property. Given the separation distance from neighbouring properties and

orientation of the buildings in the area, the proposal would not create any adverse effects in terms of loss of light. It is not uncommon for residential properties, particularly within a close built environment, to have some views into neighbouring gardens. The position and arrangement of the proposed property with surrounding garden areas is therefore not unusual. So, whilst windows of the proposal face towards neighbouring gardens, the general outlook from first floor and second floor windows would not be directly down onto neighbouring gardens. The positioning of the property and separation from site boundary would ensure there would be no adverse effects in terms of overlooking and the living conditions of neighbouring occupiers would not be harmed in terms of privacy. I also consider that given the size and number of windows and rooflights proposed, there would be sufficient outlook for future residents of the property.

13. I note that the proposal does not meet some of the separation distances detailed in the NFL as well as comments from the Council that a greater separation distance should be achieved for upper level floors. Nevertheless, due to the position, design and orientation of the proposal, it would not be harmful to the living conditions of the occupiers of neighbouring properties or future occupiers of the proposal. The proposal would be in accordance with Policy P10 of the CS, Policies GP5 and BD5 of the UDP and the Framework which seeks development to give consideration to both its own amenity and that of its surroundings.
14. I have had regard to the Council's statement of case including reference to appeal decisions which have considered NFL separation distances. However, insufficient evidence has been submitted with regards to these appeal decisions and I cannot determine whether these other appeal examples are directly comparable to the appeal scheme particularly with regards to location, positioning and design. In any case, I have determined the appeal on its own merits.

Other Matters

15. Concerns have been raised from local residents, including in relation to construction phase, light, traffic and submitted plans. I have given careful consideration to these matters, some of which the Council have not raised any objections to, but they do not lead me to a different overall conclusion on the main issues nor do they lead me to a position in which I can withhold planning permission.

Conditions

16. The conditions imposed are mainly those suggested by the Council. In the interests of precision and clarity I have undertaken some minor editing and rationalisation where necessary.
17. Conditions relating to timeliness and the identification of plans are necessary in the interests of proper planning and to provide certainty. In the interests of highway safety conditions are imposed in relation to visibility splays, parking/driveway areas and access gates. To ensure the development does not compromise the character and appearance of the CA, conditions are necessary in relation to materials, floor levels and boundary treatment. To safeguard the living conditions of neighbouring and future occupiers, conditions are necessary in relation to construction management plan and obscure glazing. To prevent

undue risk to the local environment, conditions are necessary in relation to contamination and drainage. In the interests of encouraging sustainable modes of travel, a condition is imposed relating to vehicle electric charging points. A condition is also imposed restricting future development, in the interests of neighbouring occupiers living conditions and the character and appearance of the CA.

18. The Council had requested a condition relating to landscaping however, given the scale of the development this is not considered necessary or reasonable.

Conclusion

19. The proposal would not conflict with the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
20. For the reasons given above I conclude that the appeal should be allowed.

Chris Baxter

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: 3198-DEN-A-ZZ-DR-A-2000 E; 3198-DEN-A-ZZ-DR-A-2001; 3198-DEN-A-ZZ-DR-A-2002 B; 3198-DEN-A-ZZ-DR-A-2003 C; 3198-DEN-A-ZZ-DR-A-2004 B; 3198-DEN-A-ZZ-DR-A-2005 B; 3198-DEN-A-ZZ-DR-A-2006 B; 3198-DEN-A-ZZ-DR-A-4001 B; 3198-DEN-A-ZZ-DR-A-4002 B; 3198-DEN-A-ZZ-DR-A-4003 A; 3198-DEN-A-ZZ-DR-A-9000 B; 3198-DEN-A-ZZ-DR-A-9001 B; 3198-DEN-A-ZZ-DR-A-9002 B.
- 3) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 4) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, public open space or for filling and level raising shall be tested for contamination and suitability for use. A methodology for testing these soils shall be submitted to and approved in writing by the local planning authority prior to these materials being imported onto site. The methodology shall include information on the source of the materials, sampling frequency, testing schedules and criteria against which the analytical results will be assessed (as determined by risk assessment). Testing shall then be carried out in accordance with the approved methodology. Relevant evidence, assessment and verification information shall be submitted to and approved in writing by the local planning authority prior to these materials being imported onto the site.
- 5) The 2.0m by 2.4m pedestrian visibility splay shown on plan reference 3198- DEN-A-ZZ-DR-A-2003 revision C shall be retained at the site for the lifetime of the development. At no time shall any boundary treatments, planting or other structures over 0.6m in height be allowed within this visibility splay.
- 6) The development hereby permitted shall not be occupied until all areas shown on the approved plans to be used by vehicles and vehicle parking space have been fully laid out, surfaced and drained such that loose materials and surface water does not discharge or transfer onto the highway. These areas shall not be used for any other purpose thereafter.
- 7) The gradient of all drives shall not exceed 1 in 12.5 (8%).
- 8) The development hereby permitted shall not be occupied until Electric Vehicle Charging Points have been provided in accordance with the standards set out in the Council's Draft Transport SPD. The facilities shall thereafter be retained for the lifetime of the development.
- 9) Any gates which are erected at the vehicular entrance to the site shall open inwards towards the site.

- 10) The development hereby permitted shall not commence until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors ;
 - ii) details of access, storage, parking, loading and unloading of all contractors' plant, equipment, materials and vehicles (including workforce parking);
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction including those generated by vehicles. Immediate preventative action, including the suspension of operations shall be taken if dust generated by machinery on site becomes airborne and can be seen being carried by the wind beyond the site boundary;
 - vii) a scheme for recycling/ disposing of waste resulting from construction works;
 - viii) details of construction hours.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Orders revoking or re-enacting that Order with or without modification) planning permission shall be obtained before any roof alteration, dormer, porch, extension or outbuilding are erected in relation to the approved dwelling
- 12) The development hereby permitted shall not commence until a drainage scheme (i.e. drainage drawings, summary calculations and investigations) detailing the surface water drainage works as well as arrangements for its future maintenance (e.g. adoption by the Water Company, if required) have been submitted to and approved in writing by the local planning authority. The maximum rate of discharge, off-site, shall not exceed the pre development rate, unless agreed with by local planning authority. The works shall be implemented in accordance with the approved scheme before the development is brought into use.
- 13) The development hereby permitted shall not commence until details of external materials, finished floor levels and means of enclosures have been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the proposed first floor south facing window serving the proposed en-suite bathroom to bedroom 1 shall be glazed with obscure glass to at least level 3 obscurity and maintained thereafter as such.