



Appeal Decision

Site visit made on 20 December 2021

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28th February 2022

Appeal Ref: APP/N2345/W/21/3281485

31 Tower Green, Preston PR2 9UU

- 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 and Mrs Joseph/ Jaicy Joseph and Nisanth against the decision of Preston City Council.
 - The application Ref 06/2021/0885, dated 11 June 2021, was refused by notice dated 5 August 2021.
 - The development proposed is 1 no. dwelling including vehicular access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are the effect of the development on:
 - the character and appearance of the host dwelling and surrounding area;
 - the living conditions of occupiers at No. 31 and No. 33 Tower Green; and
 - the living conditions of future occupiers with regards to outdoor amenity space provision.

Reasons

Character and Appearance

3. The appeal site comprises the rear garden of No. 31 Tower Green, a circular street made up of inner and outer properties. The rear gardens of the inner properties, including the site, back onto each other to create a sense of open space in the centre. While not identical in layout, these gardens are comparable in size, albeit with corner properties such as the appeal site also having side gardens.
4. The proposal seeks to erect a dwelling at the site. The Council acknowledges it would be narrower than neighbouring dwellings and would sit slightly behind the established building line. However, due to the variety of property styles in the area, the Council concludes that its single storey nature and pitched roof would not appear out of place. Based on my observations, I have no reason to disagree.
5. While the Council has stated that the proposed fenestration would be modern and out of keeping, I noted a variety of window design within Tower Green during my site visit. The addition of the glazing of the proposal would not therefore appear incongruous so as to unduly impact the surrounding character of the street.

6. Nevertheless, sited to the rear of No. 31 the proposal would sit in a significantly more confined plot than is typical in this group of properties, with particularly limited space to the rear. While not all garden spaces need to be identical, experienced alongside the neighbouring plots, including those which feature extended properties, the proposal would appear as a cramped form of development. It would read as squeezed into the site and failing to respect the prevailing surrounding pattern of built form. As a result, the appeal site would appear overdeveloped and the proposal would read as an incongruous addition, to the detriment of the character and appearance of the area.
7. For the reasons given I find that the proposal would have a significant adverse impact on the character and appearance of the host dwelling and surrounding area. As such, it would fail to comply with Policy 17 of the Central Lancashire Adopted Core Strategy Local Development Framework July 2012 (the Core Strategy) and Policies AD1(a) & EN9 of the Preston Local Plan 2012-26 Site Allocations and Development Management Policies July 2015 (the PLP), which together seek to ensure good design.

Living Conditions – Nos. 31 Tower Green

8. The proposal would be constructed adjacent to the boundary with No. 31. Although single storey, its proximity and mass would create a dominant feature when viewed from the rear windows of this neighbouring property even with fencing in place. From this position it would erode the visual gap between this property and No. 29, introducing a prominent expanse of built form. As such, it would appear overbearing, substantially affecting the enjoyment of No. 31's facing rooms.
9. In addition, despite the removal of an element of the garage on site, the rear garden at No. 31 would be significantly reduced, compromising its functionality. I note the appellant's view that current and future occupiers would be aware of the garden dimensions. Nevertheless, it would be unlikely to comfortably support the outdoor use required for a dwelling of this scale and would therefore be impractical in context. While a side garden would remain, due to its positioning, the low hedge, and corner plot this would lack the necessary privacy expected for garden use. The amenity space at No. 31 would therefore be inadequate for the reasonable enjoyment of occupiers.
10. The Council's Officer Report also raises concerns regarding potential overshadowing of No. 31. The mass and positioning of the proposal relative to this property and garden would lead to a reduction in the amount of light reaching these spaces. This would cause additional overshadowing and significantly increase the length of time during the day when the closest parts of the garden and rear elevation of No. 31 would lack direct sun, impacting on the living conditions of the occupiers.
11. While the reasons for refusal also state that the proposal would result in a loss of privacy within the rear garden of No. 31, the Council's Officer Report concludes otherwise. It states that the lack of proposed openings on the facing elevation would prevent any overlooking or loss of privacy within the rear garden of No. 31. Based on my observations, I have no reason to disagree.
12. Whilst I have found that the effect of the proposal on the living conditions of the occupiers at No. 31 with regards to privacy would be acceptable, for the reasons given I find that it would have a significant adverse effect with

regards to outlook, overshadowing and the provision of external amenity space. As such, it would fail to comply with Policy 17 of the Core Strategy, Policy AD1(a) of the PLP and paragraph 130 of the National Planning Policy Framework (the Framework), which together seek to ensure no adverse impacts on residential amenity. While the Council has also quoted Policy EN9 of the PLP in its reasons for refusal, this relates to design only.

Living Conditions – No. 33 Tower Green

13. No. 33 Tower Green sits to the northwest of the site, comprising a two storey dwelling and garden. Its rear elevation features a conservatory, currently used as lounge space, and other glazing at first and second storey level. The proposal would be set back from the boundary with No. 33, with the rear gardens of the properties backing onto each other at a right angle.
14. Despite the setback the proposal would result in overshadowing of the back garden and rear elevation at No. 33. It would introduce a sizeable element of built form in a currently open gap, running along a considerable length of the garden, with planting and fencing on the boundary. Due to its positioning in the site and relative to the neighbouring dwelling, it would unduly obstruct light from reaching both the rear garden and elevation at No. 33. As a result it would lead to significant overshadowing of these spaces, increasing the amount of time during which they would lack direct sun.
15. However, the proposal would not have an unacceptable impact on the privacy of occupiers at No. 33. The rear elevation would have an expanse of glazing in the form of bi-fold doors and a window above, which would face towards No. 33. However, proposed planting and retained fencing along the boundary would largely obscure any direct views towards the neighbouring rear garden or elevation. While the comments of the occupiers at No. 33 are noted regarding planting, its presence with fencing would provide an adequate level of screening of these views in a manner not uncommon in residential areas.
16. The Council further states that the separation distance between the proposal and the rear windows of No. 33, which it contends provide the main outlook, is inadequate. I also note the comments of the occupiers at No. 33 in this regard. However, the proposal would not be directly behind No. 33 such that the main outlook from the conservatory and windows towards the back garden would be retained. Combined with the setback from the boundary, the single storey nature of the proposal and the fencing and planting, I consider the separation distance to be adequate such that the proposal would not appear overbearing from the rear windows of No. 33.
17. Whilst I have found that the effect of the proposal on the living conditions of the occupiers at No. 33 with regards to privacy and outlook would be acceptable, for the reasons given I find that it would have a significant adverse effect with regards to overshadowing. As such, it would fail to comply with Policy 17 of the Core Strategy, Policy AD1(a) of the PLP and paragraph 130 of the Framework, which together seek to ensure no adverse impacts on residential amenity. While the Council has also quoted Policy EN9 of the PLP in its reasons for refusal, this relates to design only.

Living Conditions – Future Occupiers

18. The footprint of the proposed dwelling within the constrained dimensions of the site would result in limited outdoor amenity space for future occupiers. A patio and modest area of grass would be provided to the rear and, while a further area of grass would be located to the front and screened by fencing, its useable area would be significantly reduced by the presence of trees.
19. As such, the overall practicality and useability of the amenity space would be limited. Although the proposal would be a one bedroomed dwelling, the space would remain cramped. I again note the appellant's view that future occupiers would be aware of the garden dimensions. However, it would remain unlikely to comfortably support certain roles expected of the space, such as sitting out, hanging out washing or the placing of other outdoor residential paraphernalia. It would therefore not be sufficient to meet the needs of future occupiers.
20. The Council's Officer Report also refers to the privacy of the outdoor space. The positioning of the space, along with the proposed planting and retention of fencing, would ensure that it is not unduly overlooked by the rear habitable windows of No. 33 or the gardens of Nos. 31 and 33. While the potential would remain for a degree of overlooking from the second floor rear elevation windows of No. 31, this would not be to such a level that is uncommon in residential areas so as to significantly harm the living conditions of occupiers.
21. Whilst I have found that the effect of the proposal on the living conditions of future occupiers with regards to privacy would be acceptable, for the reasons given I find that it would have a significant adverse effect with regards to the provision of external amenity space. As such, it would fail to comply with Policy 17 of the Core Strategy, Policy AD1(a) of the PLP and paragraph 130 of the Framework, which together seek to ensure no adverse impacts on residential amenity. While the Council has also quoted Policy EN9 of the PLP in its reasons for refusal, this relates to design only.

Other Matters

22. The proposal would provide additional housing and create a range of housing choice within an existing residential area. While the Council can demonstrate a 5 year supply of deliverable housing, there is no bar to greater provision. However, given the single dwelling nature of the proposal, its overall contribution would be limited. As such, moderate weight is attached to this.
23. The appellant has referred to the fact that the proposal is comparable in scale and siting to a detached garage at the site, which it states is common in corner plots. However, even with similar dimensions, the proposal differs from a detached garage. Its nature as a separate dwelling would subdivide the appeal site into two smaller plots, and requires an adequate level of living conditions for occupiers. As such limited weight is attached to this argument.
24. The appellant has provided details of comparable development, to which I have had regard. Nevertheless, in its immediate setting the site represents an uncharacteristically modest plot, and the presence and positioning of the proposal would result in a combination of harm to both living conditions and character and appearance. The appeal must be determined on its own site specific circumstances and reference to development elsewhere therefore carries little weight.

Conclusion

25. I have concluded that the development would fail to respect the surrounding character and appearance, and would harm the living conditions of future and neighbouring occupiers. This equates to substantial harm. I find that the benefit arising from the provision of additional homes along with the limited weight attached to the comparability of the proposal to housing and garage development elsewhere would be outweighed by the substantial harm identified in this regard.
26. I have found the effect of the proposal on the living conditions of future occupiers and the occupiers at No. 31 with regards to privacy, and on the living conditions of the occupiers at No. 33 with regards to privacy and outlook, to be acceptable. However, this would be a lack of harm and thus neutral in my conclusion.
27. For the reasons given, overall the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR