
Appeal Decision

Site visit made on 21 January 2022

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 FEBRUARY 2022

Appeal Ref: APP/J3015/W/21/3279512
42 Derby Road, Beeston NG9 2TG

- 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 Peter Johal against the decision of Broxtowe Borough Council.
 - The application Ref 19/00605/FUL, dated 11 September 2019, was refused by notice dated 23 April 2021.
 - The development proposed is described on the application form as the demolition of existing dwelling and construction of 4 No 3-storey dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted to construct 4 dwellings and associated works following demolition of the existing dwelling; alterations to the eastern entrance to Abel Collins Homes to allow for enhanced vehicular visibility at 42 Derby Road, Beeston NG9 2TG in accordance with the terms of the application Ref 19/00605/FUL, dated 11 September 2019, subject to the conditions set out in the schedule to this decision.

Procedural matter

2. The description of development set out in the above heading is taken from the application form. However, the proposal was amended prior to determination and Part E of the appeal form refers to the development differently. It states that the proposal is to construct 4 dwellings and associated works following demolition of the existing dwelling together with alterations to the eastern entrance to Abel Collins Homes to allow for enhanced vehicular visibility. The Council dealt with the proposal on that basis and therefore so shall I.

Main issue

3. The main issue is the effect of the proposed development on the character and appearance of the local area.

Reasons

4. The appeal property, 42 Derby Road, is a large, detached dwelling of traditional style with a detached garage that are set within a deep plot off Derby Road in a mainly residential area, wherein buildings vary in scale, design and age. The existing dwelling is set back from, and occupies an elevated position to, Derby Road due to the notable difference in ground levels. Along one side of the site is an access road that serves both No 42 and a cul-de-sac of 4 detached houses further to the north, which are 42A, 42B 42C and 42D Derby Road.

5. Notwithstanding the variety in existing built form surrounding the site there are also some notable groups of properties that are similar in age and style. Among these are the Abel Collins Homes, which is a collection of 2-storey and single storey interwar properties to the west of the site and the more recent 2-storey estate style houses at Nos 42A-D just to the north of No 42.
6. While there is a strong linear pattern of suburban housing particularly along the southern side of Derby Road as it passes the site, I also saw some variety in the arrangement of buildings in their relationship to each other and the road. An example of this is to the east and northeast of the site where single storey and 2-storey dwellings have been introduced to the rear of a large, detached property at 40 Derby Road. Like the appeal property and Nos 42A-D, these existing dwellings are served by an access road leading from Derby Road.
7. The proposal is primarily to erect 4 detached dwellings side-by-side on the site following the demolition and removal of the existing dwelling and garage. Alterations are proposed to the existing access road with a priority junction created with Derby Road. An entrance to the Abel Collins Homes would also be adjusted to improve visibility for road users.
8. Each of the new dwellings would be modern in style with clean straight lines, large upper windows to the front and rear, and a shallow pitched asymmetric roof. These features, coupled with the external materials to be used, which include a mix of brick, white render, timber and bronze zinc cladding, would set the finished dwellings apart from the more traditional design and appearance of other buildings in the local area. From what I saw, existing properties typically included tiled pitched roofs and hipped or gable ends, modest-sized upper windows and largely brick and rendered walls. Even so, the area to which the site belongs, while having a coherent residential character and some broad uniformity in aspects of the built form, it is also capable of successfully accommodating a variety of dwellings in terms of their design and appearance.
9. In this case, the appeal property offers an interesting opportunity for a bespoke scheme. Creating a definitive entrance or end stop to the cul-de-sac, as proposed, would not look out of place particularly given the junction arrangement with Derby Road and the site's position at an interface between one group of properties with another. The long highway frontage of the site to the access road would allow the appeal scheme to make a strong visual statement that would enliven and add some interest to the street scene. That the submitted design includes buildings with particular features and a blend of materials that differ to those found locally reflects the diversity of existing development. To my mind, the design approach will assist with establishing an identity for the scheme and result in a development that is distinctive.
10. Each new dwelling would be substantial in its built form with a sizeable footprint. That each new building would include relatively wide front and rear elevations and a low-rise roof would visually accentuate their scale and bulk when seen from the road and nearby properties. Nevertheless, the stepped profile of the proposed front elevations with forward projecting garages, the use of horizontal and vertical banding, the textural and colour variation within the external materials and the staggered front build lines would all combine to visually 'breakup' the scale and mass of the buildings.
11. With regard to layout, the new development would take advantage of the sloping ground with the new 3-storey dwellings on the lower half of the site. In

my view, the range of building heights responds positively to the local topography. Each new addition would stand within a roughly rectangular plot the size of which would be smaller than some plots in the local area and larger than others. Each new dwelling would have a reasonable sized garden with adequate gaps between the proposed buildings to avoid any strong sense of an overly dense scheme or a layout that appears cramped. Landscaping would also visually soften the proposal to a degree when seen from some public and private vantage points.

12. In views from Derby Road, it is the dwelling on plot 4 that would be most evident standing tall behind an acoustic fence and garden. Even so, it would be set back from the highway and so the presence of the new built form would not be so imposing as to over dominate in the street scene notwithstanding its 3-storey height. While the orientation of the new additions to face the access road would contrast with that of other properties along Derby Road that directly address this highway, it would not be inconsistent with the varied pattern of existing development.
13. Overall, the proposal responds reasonably well to its context, and it would be assimilated into its surroundings. The scheme would create an attractive place to live and visit with a character that is locally distinctive. The standard of design sought by the National Planning Policy Framework would be achieved.
14. On the main issue, I therefore conclude that the proposed development would not cause significant harm to the character and appearance of the local area. As such, it complies with Policy 10 of the Council's Aligned Core Strategies Part 1 Local Plan and Policy 17 of its Part 2 Local Plan 2018 - 2028. These policies broadly aim to ensure that all new development positively contributes to the sense of place, integrates into its surroundings, and creates a place with a locally inspired or otherwise distinctive character.

Other matters

15. Highways England (now National Highways) raise no objection to the proposed access arrangements, which takes into account factors such as the effect on road safety and on traffic flows. The Council reaches the same conclusion in relation to parking, circulation and access by service and emergency vehicles. With a condition in place to ensure that the proposed highway works are complete before any new dwelling is occupied, I agree with those views.
16. The appellant's Protected Species (Bat) Survey and Ecological Assessment (PSS&EA) notes that the site has some features of biodiversity value notably for bat and bird foraging and bird nesting with a precautionary approach advised in relation to the demolition of the house. The PSS&EA makes several recommendations such as a need to check for bat roosts and hedgehogs before any demolition or site clearance is undertaken. It also advises that artificial lighting should be controlled to protect wildlife. With these measures in place, and secured by a condition, Nottinghamshire Wildlife Trust and the Council raise no objection to the proposal and nor do I.
17. According to the Council some trees have been removed, although the plans show that the higher value trees towards the western and eastern boundaries of the site, which provide a notable landscape presence and a visual screen, are to be retained. The appellant's Arboricultural Survey Report and Method Statement includes a tree survey and identifies measures designed to protect

the retained trees. The plans also show that new planting is proposed. With a condition in place to require a detailed landscape scheme, the effect of the proposal on trees would be acceptable.

18. There would be some loss of natural light to No 42A due to the introduction of a substantial new built form on plot 1, just to the south. However, having regard to the position and height of the new dwelling on plot 1 and the difference in local ground levels, the loss of light would not be so great as to significantly harm the living conditions of the occupiers of this adjacent property. Given the separation distances between the new dwellings and existing properties to the west, north and northeast of the site, there would be no significant loss of light or outlook to the occupiers of these properties.
19. The inclusion of obscure glazing to the upper north-facing window of the new dwelling on plot 1 would avoid overlooking problems towards No 42A. Straightening the access road near at its junction with Derby Road would have no significant effect on the views of road users towards the existing properties that face this road. More generally, the elevated position and size of some windows in the new dwellings would lead to a greater level of overlooking of existing properties than would be possible from the dwelling to the replaced. An example would be views from the upper rear windows of the new dwellings on plots 1 and 2 towards the outside areas to the rear of some Abel Collins Homes that back onto the site. In my experience, overlooking of this type is a common characteristic of the relationship between dwellings in built-up areas. Overall, the additional overlooking possible would have no significant impact on the living conditions of the occupiers of existing properties, including No 42A.
20. There is concern that the proposal, if allowed, would set an undesirable precedent. However, each proposal should be assessed on its own merits, as I have done. There is no persuasive evidence before me that additional demand caused by the development would be put an unacceptable strain on the drainage system or would significantly worsen the smells from the drains to which some interested parties refer.
21. A communal bin store and collection point would be placed to one side of the junction with Derby Road. This store appears to be large enough to store the necessary number of containers without causing an obstruction. The Council's Waste and Recycling Officer raises no objection to the proposal, and I see no reason to depart from that view.

Conditions

22. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure the satisfactory appearance of the development, conditions are imposed to require details of external materials and landscaping. For the same reason, a condition is necessary to ensure that the bin storage and collection area is in place before any dwelling is occupied.
23. To safeguard and promote biodiversity, a condition is necessary to provide the protection and mitigation measures outlined in the PSS&EA. These measures can be secured in the form of a Construction Environmental Management Plan, as referred to by the Nottinghamshire Wildlife Trust. In the interests of public safety, a condition is required to ensure that the proposed highway works are complete before any of the new dwellings are occupied. For the same reason,

to safeguard the living conditions of the local residents and to minimise waste, a condition requiring details of the arrangements for demolition and construction is also necessary.

24. To safeguard residential amenity for future residents, a condition is imposed to require that the noise mitigation measures recommended in the appellant's Noise Assessment are implemented. To protect the residential amenity of the occupiers of No 42A, the upper stairway window in the north-facing elevation of the new dwelling on plot 1 should include obscure glazing.
25. The conditions reflect those suggested by the Council, with amendments, where necessary, for clarity and precision. Both the appellant and Council has agreed to the pre-commencement conditions.

Conclusion

26. For the reasons set out above, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs 7416 MEIN-01-XX-DR-A-20-001 Revision 2, 7416 MEIN-01-XX-DR-A-20-002 Revision 2, 7416 MEIN-01-XX-DR-A-20-003 Revision 2, 7416 MEIN-01-XX-DR-A-20-004 Revision 2, 7416 MEIN-01-XX-DR-A-20-005 Revision 2, 7416 MEIN-02-XX-DR-A-20-006 Revision 4, 7416 MEIN-02-XX-DR-A-20-007 Revision 4, 7416 MEIN-02-XX-DR-A-20-009 Revision 4, 7416 MEIN-02-XX-DR-A-20-010 Revision 4, 7416 MEIN-02-XX-DR-A-20-011 Revision 3, 7416 MEIN-03-XX-DR-A-20-015 Revision 1, 7416 MEIN-03-XX-DR-A-20-015, 7416 MEIN-03-XX-DR-A-20-017 Revision 1, 7416 MEIN-03-XX-DR-A-20-018, 7416 MEIN-01-XX-DR-A-24-001 Revision 1, 7416 MEIN-02-XX-DR-A-24-002 Revision 4, 7416 MEIN-03-XX-DR-A-24-003 Revision 1, 7416 MEIN-XX-XX-DR-A-70-001 Revision 1, 7416 MEIN-XX-XX-DR-A-70-002 Revision 4, 7416 MEIN-XX-XX-DR-A-70-003 Revision 5, 7416 MEIN-XX-XX-DR-A-70-004, 7416 MEIN-XX-XX-DR-A-70-006 Revision 2 and BEES-BSP-ZZ-ZZ-DR-D-0001 Rev P02.
- 3) No above ground works shall commence until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No above ground works shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. This scheme shall include: trees, hedges and shrubs to be retained and measures for their protection during the course of development; numbers, types, sizes and positions of proposed trees and shrubs; proposed boundary treatments; design including materials of the communal bin storage/collection area; proposed hard surfacing treatment; proposed lighting details; planting, seeding/turfing of other soft landscape areas; and details including siting of

- ecological enhancements including the provision of bird and bat boxes. The approved scheme shall be carried out in accordance with the approved details.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written approval to any variation.
 - 6) No dwelling hereby permitted shall be occupied until the bin store and collection area shown on drawing number 7416 MEIN-XX-XX-DR-A-70-003 Revision 5, has been provided in accordance with the approved details. The bin store and collection area shall be for the use of the occupiers of all properties to be served off the access drive and shall be permanently retained as such.
 - 7) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Environmental Management Plan shall be carried out in accordance with the approved details.
 - 8) No dwelling hereby permitted shall be occupied until the works to the junction, including the alterations to the boundary at Abel Collins Homes, have been completed in accordance with the approved details and are available for use. The access and junction shall thereafter be retained as such.
 - 9) No development shall take place, including any works of demolition, until a Demolition and Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Demolition and Construction Method Statement shall provide for: the means of access for construction traffic; the parking of vehicles for site operatives and visitors; loading and unloading of plant and materials; the erection and maintenance of security hoarding; wheel washing facilities; storage of plant and materials used in the construction of the development; a scheme for recycling/disposal of waste resulting from demolition and construction works; delivery, demolition and construction working hours; and details of dust and noise suppression to be used during the demolition and construction phases. The approved Demolition and Construction Method Statement shall be adhered to throughout the demolition and construction periods of the development.
 - 10) No dwelling hereby permitted shall be occupied until the noise mitigation measures relevant to that plot and as detailed in Section 7 of the Noise Assessment by Walnut Acoustics ref WA/1119/NA-235, dated 17 November 2019 have been fully installed. The measures shall be permanently retained thereafter.
 - 11) The dwelling on plot 1 hereby permitted shall not be occupied until the window serving the stairway in the north-facing elevation has been fitted with obscure glass to Pilkington Level 4 or 5 (or such equivalent glazing that has been previously been agreed in writing by the local planning authority) and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed, the obscured glazing shall be permanently retained thereafter