



Appeal Decision

Site visit made on 9 March 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 April 2022

Appeal Ref: APP/J3015/W/21/3280486

28 Park Road, Chilwell NG9 4DA

- 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 S Jude against the decision of Broxtowe Borough Council.
 - The application Ref 20/00667/FUL, dated 22 September 2020, was refused by notice dated 23 April 2021.
 - The development proposed is to demolish existing bungalow and additions and construct one pair of semi-detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing bungalow and additions and construct one pair of semi-detached dwellings at 28 Park Road, Chilwell NG9 4DA in accordance with the terms of the application, Ref 20/00667/FUL, dated 22 September 2020, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues are the effect of the proposal on (i) the character and appearance of the area and (ii) the living conditions of the occupants of nearby dwellings.

Reasons

Character and appearance

3. The section of Park Road in which the appeal site is located is characterised by a great variation in the scale of buildings, their appearances, their ages and their positioning in relation to the public highway. Some dwellings have frontage parking areas, whereas others do not, but in both scenarios front boundaries are generally defined by walls and/or established hedging. This creates a street scene which is diverse in terms of the buildings that sit within it, but which has a consistency with regard to how their frontages address the public domain. These factors contribute positively to the character and appearance of the surrounding area.
4. The appeal site is presently occupied by a single storey bungalow which has an adjoined annexe. These are buildings which are of no particular visual or design merit in the context of their surroundings. In contrast, the proposed replacement dwellings would achieve a good standard of design and one which would be visually appropriate in relation to other existing dwellings found in the vicinity. Their overall scale and massing would also be appropriate in comparison to these existing dwellings, with a ridge height approximately

equivalent to that of 34 Park Road. Although the proposal would be set forward of No 34, this would reflect the existing street scene, where dwellings have differing positionings relative to one another and to the public highway. Its siting relative to its two side boundaries would also be consistent with the siting of other existing dwellings along the road.

5. The density of the proposal would be higher than that which prevails at other existing dwellings. However, this would only be apparent to the rear, which would not result in a harmful impact on the character and appearance of the area. Whilst frontage parking would be provided, many other properties in the area also have such surfaced areas, including the existing appeal site. Landscaping could be secured to ensure that the development is visually consistent with its surroundings. As a result of all of these considerations, the proposal would successfully integrate into the street scene in a manner that would not cause harm to the character and appearance of the area.
6. The Council's reason for refusal does not relate to the impact of the proposal on the Cottage Grove Conservation Area (CA). Nonetheless, I have a statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA lies in its historic origins and objectives, and in the arrangement of period properties along narrow public highways which belie their urban location and instead have a more rural feel.
7. As I have set out above, I find that the proposed development would not cause harm to the character and appearance of the area. Many of the relevant considerations in this regard are also established elements in defining the character and appearance of the CA, including the scale and design of the proposal, the spacing between properties, its positioning in the plot, frontage car parking and the presence of hedging along the front boundary of the site. Therefore, the proposal would not only integrate well into the area, but it would also integrate into the CA in a manner that would not cause harm to this designated heritage asset. Therefore, I find that the proposal would preserve the character and appearance of the CA.
8. For these reasons, I conclude that the proposed development would not cause harm to the character and appearance of the area. The proposal would therefore accord with Policy P10 of the Broxtowe Aligned Core Strategy 2014 (ACS) and Policy 17 of the Broxtowe Part 2 Local Plan 2019 (P2LP), where they seek to protect character and appearance. The proposal would also preserve the character and appearance of the CA.

Living conditions

9. The adjacent dwelling at 26 Park Road is a dormer bungalow with ground floor windows in its rear elevation near to the boundary with the appeal site and with one window that faces towards the common boundary. The proposed development would extend beyond the rear elevation of No 26 at both ground and first floor level. Whilst this would have some impact in comparison to the current situation, there would not be a significant projection at two storey height and the proposal would sit to the other side of a relatively high brick boundary wall which already impacts upon No 26, in particular on the window closest to it. There would be a much lesser impact on the other two windows, as they are not in as close proximity to the boundary.

10. Furthermore, No 26 has a sizeable rear garden area, and the part of the garden that would be most affected by the proposed development does not appear to be the most favourable for outside use, being close to the windows and the brick boundary wall. The demolition of the appeal property would also remove a section of high walling that forms the annexe to the appeal dwelling, thus opening up this section of the boundary. Windows in the rear elevation would not be directly facing No 26 and those on the side elevation would be obscurely glazed. Taken as a whole, the proposal would not cause harm to the living conditions of the occupants of No 26 by way of a loss of outlook or light, due to overlooking or by reason of its massing.
11. The dwelling at 34 Park Road has been extended at ground floor level to its rear. There is extensive glazing at ground floor level on the rear elevation, with a roof light above the extension, in addition to rear windows at first floor level and a French door which faces towards the appeal site. The proposal would not however extend beyond the rear elevation of the ground floor extensions, and there would be no harmful impact to that part of the adjacent dwelling as a result. Whilst it would extend back behind the first floor of No 34, the projection would not be substantial in depth and would be set away from the French doors. The proposal would not as a result cause harm to living conditions due to its massing or through a loss of light or outlook. There would also not be a harmful impact on the rear garden of this dwelling in the same respects.
12. Windows in the rear elevation of the proposed dwellings would not face directly towards No 34 and the proposed windows in the side elevation would be obscurely glazed. This means that there would not be any undue overlooking arising from them. The proposal would be positioned further forward than the front elevation of No 34, but the length of this projection in conjunction with the separation provided between No 34 and the proposal would mean that there would not be a harmful impact in terms of a loss of outlook or light to the windows on its front elevation, or as a result of the massing of the proposal.
13. The existing properties beyond the rear boundary are dormer bungalows. There would be adequate distances between the proposal and these dwellings, and their orientations in relation to the appeal site would further ensure that there would not be harm to the living conditions of their occupants as a result of overlooking, massing or through a loss of light or outlook. Acceptable living conditions would be provided for the future occupants of the two proposed dwellings.
14. For these reasons, I conclude that the proposed development would not cause harm to the living conditions of the occupants of nearby dwellings. The proposal would therefore accord with Policy P10 of the ACS and Policy 17 of the P2LP, where they seek to safeguard living conditions.

Other Matters

15. It has been suggested that the proposal would amount to a breach of the rights afforded under the Human Rights Act 1998 (HRA), in particular Protocol 1, Article 1, which states that a person has a right to the peaceful enjoyment of their possessions. Reference is also made to harm to health that could arise. However, I have found that no harm would be caused to living conditions as a result of the proposed development. Accordingly, my allowing of the appeal would not result in the interference or violation of the rights of interested

persons under the HRA, nor would it lead to an adverse impact when considered under the Public Sector Equality Duty contained in the Equality Act 2010.

16. The proposal would result in the loss of a bungalow but given the scale of this loss it would not compromise the strategic objective of the development plan to provide a mix of house types and sizes. The existing trees on the site are of no visual merit, and there is no reason to consider that their loss should be objectionable. Whilst reference has been made to the setting of a precedent and to other house building that is taking place in the borough, I am required to determine the appeal on its own merits.
17. Park Road is subject to parking restrictions and the additional access would lead to the loss of a small area that can potentially be used for on-street parking. However, this would be compensated for by the off-street parking that would be available to serve each of the two dwellings. Furthermore, there was no objection raised to the proposal by the Highway Authority, and I have no reason to take a different view as to the impact that the proposal would have with respect to highway matters.
18. There is no substantive evidence before me to suggest that the proposal would cause harm with respect to surface water drainage, pollution or biodiversity interests. Potential damage to property would be a private matter between the parties involved.

Conditions

19. Conditions relating to the time period for commencing development and the approved plans are required to provide certainty. It is also necessary to impose a condition relating to external facing and roofing materials, along with details of rainwater goods, in the interests of ensuring that the proposal has an appropriate visual appearance in its CA location. Details of heads, cills and windows are also required, as such features are particularly characteristic of other existing buildings in the CA. It is therefore necessary that these elements are visually consistent with their surroundings. Details of hard and soft landscaping and boundary treatments are also needed to ensure that the proposal has an acceptable visual appearance.
20. Conditions relating to the hard surfacing of the drives and parking areas, preventing unregulated drainage from them and requiring their provision before occupation are needed to ensure that the proposal does not adversely impact on highway safety.
21. The windows at first floor and second floor level on both side elevations are shown to be obscurely glazed on the plans, with those at second floor also being shown to be non-opening. This would ensure that there would be no adverse overlooking onto the adjoining dwellings. It is however necessary to impose a condition specifying a privacy level and confirming the parts of the second floor windows that would need to be non-opening, as this is not clear from the plans.
22. The Council considers that matters relating to hours of working during construction can adequately be controlled by way of other, non-planning, legislation. A condition relating to hours of working is therefore not required.

Given the scale of the proposal, it is not necessary or reasonable to impose a condition relating to a construction management plan.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed.

Graham Wraight

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: 20/0976/10 Rev B, 20/976/11 Rev E & 20/976/12 Rev A.
- 3) No above ground works (except demolition works) shall take place until samples of the materials and finishes to be used for the external elevations and roof of the approved dwellings have been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out with those materials and finishes, unless the Local Planning Authority gives written approval to any variation.
- 4) Before any rainwater goods are installed on the approved dwellings, samples or detailed specifications of all rainwater goods (including the method of fixing) shall be submitted to and agreed in writing by the Local Planning Authority. The works shall thereafter be carried out only in accordance with the agreed rainwater goods details.
- 5) Before any windows and doors are installed on the approved dwellings, details of their material, design, specification, method of opening and method of fixing and finish, in the form of drawings and sections of no less than 1:20 scale, shall be submitted to and agreed in writing by the Local Planning Authority. The works shall thereafter be carried out only in accordance with the agreed window and door details.
- 6) Before any window or door heads and cills are installed on the approved dwellings, details of their design, material and construction, in the form of scale drawings and material samples/specifications, shall be submitted to and agreed in writing by the Local Planning Authority. The works shall thereafter be carried out only in accordance with the agreed heads and cills details.
- 7) No above ground works (except demolition works) shall take place before a scheme of landscaping, which shall include details of both hard and soft landscape works and earthworks, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following the completion of the development. Any trees, shrubs or plants that die within a period of five years from the completion of the development, or are removed and/or become seriously damaged or diseased in that period, shall be replaced

(and if necessary continue to be replaced) in the first available planting season with others of similar size and species unless the Local Planning Authority gives prior written permission for any variation.

- 8) No above ground works (except demolition works) shall take place until details of all walls (including retaining walls), fences, gates or other means of enclosure to be erected in or around the development have been submitted to, and approved in writing by, the Local Planning Authority. Prior to the first occupation of the development the walls (including retaining walls), fences, gates or other means of enclosure shall be erected as approved and shall thereafter be permanently retained and maintained.
- 9) No part of the development hereby permitted shall be brought into use until both drives and parking areas are surfaced in a hard-bound material (not loose gravel) for a minimum of 5.5 metres behind the highway boundary. The surfaced drives and parking areas shall then be maintained in such hard-bound material for the life of the development.
- 10) No part of the development hereby permitted shall be brought into use until both access driveways and parking areas are constructed with provision to prevent the unregulated discharge of surface water to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
- 11) Prior to the occupation of the dwellings, the car parking areas as depicted on approved plan 20/976/11 Rev E shall be provided for the occupiers of the dwellings. Thereafter they shall be used for no other purpose and shall be retained in perpetuity.
- 12) Prior to the occupation of the dwellings hereby approved, the first and second floor windows on the south east and north west side elevations shall be obscurely glazed to Pilkington Level 4 or 5 (or such equivalent glazing which shall first have been agreed in writing by the Local Planning Authority) and the second floor windows on the south east and north west side elevations shall be non-opening to a height of at least 1.7 metres above the floor of the room in which they are installed. All windows shall be retained in these forms for the lifetime of the development

-----End of Conditions-----