



Appeal Decision

Site visit made on 23 March 2022

by M Clowes BA (Hons) MCD PGCERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/X4725/W/21/3288573

Land to the rear of Delph House, Estcourt Road, Darrington, Pontefract WF8 3AL

- 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 Dr & Mrs Martin Johnson against Wakefield Metropolitan District Council.
 - The application Ref 21/01984/FUL, is dated 2 August 2021.
 - The development proposed is construction of single detached house.
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Decision

1. The appeal is dismissed and planning permission for the construction of single detached house is refused.

Procedural Matters

2. The appeal is against the Council's failure to determine the planning application within the relevant statutory timeframe. However, I have had regard to the Council's delegated officer report and appeal statement, which provides clarity in terms of the reason why the Council would have refused planning permission for the proposed dwelling, had it been able to do so. This has formed the main issue below.

Main Issue

3. The main issue is the effect of the proposed development upon the living conditions of the occupiers of The Meadows and Delph House, with particular regard to privacy and outlook.

Reasons

Delph House

4. The Council have directed me to the Residential Design Guide Part 1: Guidance for Housebuilders Supplementary Planning Document 2018 (SPD) which seeks to ensure that the amenity of existing and future occupiers would not be detrimentally affected by new development. It sets out a suggested minimum separation distance of 21m between the principal elevations of existing and proposed dwellings.
5. The appellants have provided a drawing showing the distances between the proposed and neighbouring dwellings. It suggests that the closest part of the proposed L-shaped front elevation would be approximately 15.1m from the habitable windows on the single storey rear extension belonging to Delph

House. Although I agree that the SPD is guidance, in this instance the proposed dwelling would be substantially below the recommended separation distance. To overcome the proximity, the proposed elevation plans denote obscured glazing to the apex of the front facing gable which would serve a snug. Whilst preventing direct overlooking, this feature would result in a habitable room within the proposed dwelling having an unacceptably poor outlook, given that the only other openings serving this room would be rooflights above eaves level. This contrived detailing along with the topography of the site and limited boundary treatment would not mitigate the proximity of the dwelling to Delph House.

6. The garden to Delph House rises steadily from the rear elevation towards the southern boundary, with the rear portion rising more steeply. Despite the proposed dwelling stepping up to follow the gradient, and being cut into the land at the rear, the finished floor level would be higher than that of Delph House. Additionally, whilst the lower ridge of the roof would be consistent with this adjacent property, the upper roof ridge would be higher. Given the large scale of the proposed dwelling and the closeness of the front forward projection, it would result in built development in proximity to the principal ground floor windows belonging to Delph House. The proposed dwelling would be overbearing and dominating when viewed from these windows resulting in an oppressive form of development.
7. Although Delph House is currently owned by a relative of the appellants and it is planned to remain in the family, this might not always be the case. The amenity afforded to the proposed dwelling and its neighbours needs to be satisfactory at the point of determination, for the lifetime of the development. I find that the outlook currently afforded to the occupants of Delph House would be unduly harmed by the proposed dwelling.

The Meadows

8. Despite the submitted plan indicating a separation distance of 20m between the proposed dwelling and the rear elevation of The Meadows, it fails to take account of the single storey rear projection to the neighbouring dwelling, which forms a habitable room with windows to all sides. The proposed dwelling would therefore be much closer to the rear of The Meadows and again, less than the SPD standard, albeit in a slightly offset position.
9. The proposed dwelling would be sited close to and extend along the western boundary of the site shared by The Meadows, for a substantial distance (approximately 16.4m as cited by the Council). The cumulation of the lack of a suitable separation distance between principal windows as advocated by the SPD, a proposed higher floor level and the large scale of the building in proximity, would inflict an imposing and domineering form of development on the occupants of The Meadows. The impact would not be modest as a result and, would significantly reduce the presently open outlook afforded to the occupiers of this neighbouring property.
10. Located within the western elevation of the proposed dwelling, a ground floor bedroom window would face towards the rear garden of The Meadows. Due to the shared boundary being formed by a low hit and miss fence, it is currently possible to gain open views across the neighbouring garden from the appeal site. However, the occupiers of The Meadows benefit from a private sitting out area close to the patio doors at the western side of the dwelling, which is

partially screened from the east by the single storey rear projection. The siting of the proposed dwelling in proximity to the boundary would increase both the perception of overlooking from the proposed rooflights and permanent direct overlooking, from the proposed ground floor bedroom across the garden towards the private sitting out area, where currently there is none. The level of privacy currently afforded to the neighbouring occupiers would be adversely affected as a result.

11. Partial shading to the rear garden of The Meadows is likely, particularly during the morning in winter months, given the position of the proposed dwelling to the south-east and its proximity to the shared boundary. Nevertheless, given the sizeable area of the rear garden, it would not cause shading to such a degree that it would prevent reasonable use of the garden by the occupants of The Meadows.

4 Greenroyd Court

12. A previous scheme for the erection of a similar dwelling closer to the eastern boundary of the site with 4 Greenroyd Court was refused by the Council (application reference 21/00047/FUL), due to the impact of the siting and scale of development on the living conditions afforded to the occupants of this adjacent property. In the revised position now proposed, along with the presence of the substantial boundary hedge and the use of obscured glazing in the nearest first floor side elevation, the proposed dwelling would not impact so significantly on matters of privacy or outlook for the neighbouring occupants of No 4.
13. Irrespective of my findings in relation to the impact of the development on No 4, I find that the proximity, levels and scale of the proposed dwelling would result in an adverse effect on the living conditions of the occupiers of Delph House and The Meadows, in terms of privacy and outlook. Consequently, conflict is found with Policy D9 (k) of the Wakefield Local Development Framework; Development Policies Document (2009), which seeks to prevent unacceptable impacts on the amenity of neighbouring residents, an objective shared with the SPD (2018). It would also fail to comply with paragraph 130 of the National Planning Policy Framework (the Framework), which requires new development to have a high standard of amenity for existing users.

Other Matters

14. The appellants suggest that the proposed dwelling would be in a sustainable location and that it would be energy efficient in its design, with the additional use of renewable energy technologies. The proposal being 1 dwelling would make a limited contribution to housing supply in an existing village location. It would also provide very modest economic benefit to the village economy in supporting local facilities. The location of the development weighs modestly in its favour and the sustainability aims are commendable. However, the sustainability credentials are not exceptional and there may be other ways of achieving similar benefits through alternative schemes, that would avoid the harm identified above. Furthermore, the lack of objections from statutory consultees does not justify development that would be harmful to the living conditions of occupiers of neighbouring properties. These matters do not affect my overall findings.

15. I understand the appellants' desire to have an adaptable home to enable independent living in older age. I must have due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic such as disability, and people who do not share it. I do not doubt the appellants' intentions to provide an adaptable home for their possible future needs. However, achieving prospective accessibility benefits, do not appear to be inherently reliant on the scheme before me. Although adaptive, the proposed dwelling is not required to meet particular medical needs at this point in time, and it would not provide specialist housing for older people as defined in the Planning Practice Guidance. Having carefully considered the potential benefits of the scheme, dismissal of the appeal is a proportionate response to the well-established planning objectives of protecting existing levels of amenity, and I am led to a dismissal of the appeal.

Conclusion

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

M Clowes

INSPECTOR