



Appeal Decision

Site visit made on 20 April 2022

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th May 2022

Appeal Ref: APP/W0734/W/22/3290534
15 Portland Close, Middlesbrough, TS7 8LD

- 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 & Mrs Andrew Allick against the decision of Middlesbrough Council.
 - The application Ref 21/0606/FUL, dated 19 August 2021, was refused by notice dated 22 December 2021.
 - The development proposed is erection of new detached dwelling (utilising existing garage).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The drawings were amended during the application process. For clarity the drawings I am considering as part of this appeal are W21.29(9-)2C and W21.29(00)2C, since I understand from the submissions before me that those are the versions on which the Council based its decision.
3. The Council did not include one of its reasons for refusal on the decision notice. However, the reason for refusal was set out in the Council's Officer Report together with the rationale for it. I provided the appellant with an opportunity to comment on the omitted refusal reason. I am satisfied that no party has been prejudiced by the omission and I have assessed the proposal having regard to it.

Main Issues

4. The main issues are the effect of the development on the (i) character and appearance of the area, and (ii) the living conditions of the occupiers of No 37 and No 39 Tollesby Lane with regard to outlook.

Reasons

Character and appearance

5. Portland Close is a small cul-de-sac in a mostly residential area. The appeal property comprises a detached house with rear and side gardens and a detached double garage to the front of the plot. Adjacent to the side and rear of the appeal site are the gardens of properties facing Tollesby Lane and Marlborough Road.

6. The detached houses facing Portland Close, of which the appeal property is the end dwelling, are sited in a relatively regimented arrangement and are of a similar design with comparable building lines.
7. The recently constructed detached double garage to the front of No 15 is prominent on the approach to the appeal site because of its slightly elevated position, its width and height forward of the building line and its siting at the head of the cul-de-sac.
8. Although the proposed extension to the garage would be constructed of matching materials, the proposal would introduce a significant additional mass of built development near, and partly forward of, the front of the existing dwelling and the garage. The resulting single storey dwelling would appear tight up against No 15 when viewed from the street and its form would not be sympathetic to the two-storey development within Portland Close.
9. Even though there is a more varied arrangement of buildings opposite No 15 and within the surrounding streets, the proposed development at the end of a row of similarly designed and sited houses would appear inappropriate to its immediate surroundings. The proposal would not sit comfortably with the form of the existing house, the rhythm of development along Portland Close or the established building line. The proposed dwelling's inappropriate siting and design would draw attention, and because of its prominent slightly elevated position at the head of the cul-de-sac it would be incongruous with the character of Portland Close and would look harmfully out of place.
10. Therefore, overall, the proposal would be detrimental to the character and appearance of the area in conflict with Policies DC1 (b) and CS5 (c and f) of the Middlesbrough Local Development Framework Core Strategy (Core Strategy) and Policy MW6 of the Marton West Neighbourhood Plan (NP), where these policies seek to ensure that the development is compatible with its surroundings, including ensuring that development visible from a street reflects the rhythm, scale and proportion of the street scene.
11. The proposal would also conflict with the National Planning Policy Framework (The Framework) where it seeks to ensure that developments function well and add to the overall quality of the area, are sympathetic to local character and history, including the surrounding built environment and landscape setting.
12. The Council also refers to Policy MW7 of the NP, but I do not consider the development to be backland or tandem development and therefore this policy is not relevant to my considerations here. Further, as the proposal is for a separate dwelling, section 5 paragraph 5.4 (a), (c) and (h) of the Middlesbrough Urban Design Supplementary Planning Document (SPD) is of limited relevance.

Living conditions

13. The rear elevations of No 37 and No 39 Tollesby Lane face the side boundary of the appeal site at relatively close proximity because of the limited depth of their gardens. The existing garage is immediately adjacent to the close boarded boundary fence and visible above the fence line from the rear windows of No 37 and from within the garden.
14. The proposed pitched roof extension to the side of the garage required to create the separate dwelling would be set in from the side boundary. Although

the single storey extension would be visible from the Tollesby Lane properties, because of its height and position in relation to the boundary, it would not be harmful to their outlook, or otherwise detract from their living conditions by being overbearing or oppressive.

15. Therefore, the proposal would not detract from the living conditions of No 37 or No 39 Tollesby Lane. In this respect, the proposal would accord with Policies DC1 (c) of the Core Strategy and Policy MW6 of the NP which require that the amenity of occupiers of nearby properties are taken into account. Nor would there be a conflict with the Framework which seeks to ensure that development creates places with a high standard of amenity for existing and future users.
16. For the reasons I have set out above, Policy MW7 of the NP is not relevant to the proposed development. As the proposal is to create a separate dwelling and is single storey development the advice in Paragraph 5.6(b) and 5.7 (c) of the SPD is of limited relevance here.

Other Matters

17. The proposed bungalow would be occupied by the appellants; Mrs Allick suffers with a particular progressive medical condition. Section 149 of the Equality Act 2010 (the Act) sets out that disability, defined as a physical or mental impairment that has substantial and long-term adverse effects on a person's ability to carry out normal day-to-day activities, is a relevant protected characteristic for the purposes of the Act. Consequently, I have had regard to the Public Sector Equality Duty contained in the Act. This includes having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it.
18. There is limited evidence of how the design of the proposed bungalow would be adapted to meet Mrs Allick's specific needs, or other options that have been considered to provide suitable accommodation. I am sympathetic to the appellants' personal circumstances but there is insufficient specific evidence for me to draw a conclusion that the provision of the proposed detached bungalow is the only reasonable option available to meet the appellants' needs. As such I can only give limited weight to the personal circumstances identified.

Conclusion

19. I am satisfied that the development would not detract from the living conditions of No 37 or No 39 Tollesby Lane. Nevertheless, for the reasons given above, I conclude the proposal would conflict with the development plan and there are no material considerations, including the Framework and the appellant's personal circumstances, that would outweigh that conflict. Therefore, the appeal is dismissed.

Diane Cragg

INSPECTOR