



Appeal Decision

Site visit made on 26 April 2022

by Mr C J A Parker BA(Hons) PgCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 06/06/2022

Appeal Ref: APP/J3015/W/22/3290140

Detached Double Garages, Cyprus Avenue, Beeston NG9 2PG

- 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 Jacob Brown against the decision of Broxtowe Borough Council.
 - The application Ref 21/00364/FUL, dated 23 April 2021, was refused by notice dated 3 December 2021.
 - The development proposed is described as '*proposed demolition of existing garages and to construct two self-contained flats @ garages, Cyprus Avenue, Beeston, Nottingham, NG2 9PG*'.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garages and to construct two self-contained flats at Detached Double Garages, Cyprus Avenue, Beeston NG9 2PG in accordance with the terms of the application, Ref 21/00364/FUL, dated 23 April 2021, subject to the following conditions set out in Appendix A.

Preliminary Matters

2. The Local Planning Authority's decision notice omits reference to the drawing numbers. It is clear from the submitted Planning Committee Report dated 1 December 2021, under Paragraph 8.1 that the suggested conditions refer to Drawings 002 Rev C and 003 Rev C. I have proceeded on this basis.
3. The description on the application form includes information such as repetition of the appeal site address. For clarity, I have omitted such references from the description of what planning permission has been granted for.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the street scene, and;
 - The effect of the proposed development on highway safety with specific regard to parking.

Reasons

Character and appearance

5. The appeal site is a corner plot on Cyprus Avenue occupied by a pair of single storey, flat roof garages. The garages form the boundaries with surrounding plots. The street scene comprises mainly two storey semi-detached dwellings which appear to date from roughly the same period. There is also a five-garage bay building with space above located next to the appeal site on Cyprus Avenue.
6. The proposed building has clearly been designed to be visually contemporary and contrasting with the prevailing built form. At the same time, the originally submitted design had been amended to inset the curved first floor element, reduce the height of the building and amend the fenestration. That amended scheme is the one before me. Moreover, the overall massing and bulk of the building would not be excessive and be in keeping with that found in the wider street scene.
7. For example, it is clear from drawing 1013 003 Rev C, that the ridge height of the proposal would be lower than that of the adjoining building facing Wollaton Road and also the five-garage bay building on Cyprus Avenue. I acknowledge that the building would be architecturally different – both in terms of design and potential materials palette – compared to the wider street scene. However, just because something is different is in itself not justification for dismissing a small residential development within a residential area.
8. Indeed, the design proposed takes into account the constraints of the appeal site – clearly it would not be able to accommodate a pair of semi-detached houses like those found on Cyprus Avenue. As set out within the Appellant's Statement of Case at Paragraphs 1.8 to 1.13, there are other examples of contemporary designed buildings (including some within Conservation Areas). The proposed building would be a modest addition to the street scene whilst being a positive addition to the character of the locality.
9. I therefore conclude that the proposal would not have an adverse effect on the character and appearance of the street scene. It would therefore accord with Policy 17 of the *Part 2 Local Plan (2019)* (LP) and Policy 10 of the *Broxtowe Aligned Core Strategy (2014)* (CS), which, amongst other aims, seek to ensure that new developments should be designed to make a positive contribution to the public realm and sense of place.
10. It would also accord with the Policies of the *National Planning Policy Framework* (the Framework) including at paragraph 130 in that planning decisions should ensure that developments will function well and add to the overall quality of the area and '*are sympathetic to local character and history, including the surrounding built environment... whilst not preventing or discouraging appropriate innovation or change*'.

Highway safety

11. The proposal seeks the erection of a building that would contain two one-bedroom flats with kitchen and living room areas. It is clear from the submitted drawings that the proposal would not provide any on-site parking. However, it is clear from the information submitted by the Appellant that the site is within walking distance of shops and services along Wollaton Road. This

is affirmed by the local Highways Authority who raised no objection, and the recommendation of the Planning Officer, who indicated that the proposal is 'within walking distance of Beeston Town Centre'.

12. Indeed, travelling further along Wollaton Road, are three large supermarkets, other shops, banks, post office, pharmacies, library, restaurants and other similar uses at Beeston town centre. These are within walking distance of around 5 to 10 minutes as suggested within the Appellant's final comments. On Wollaton Road there are bus stops, which provide links into the Beeston Centre bus stop and wider public transport network.
13. I acknowledge the concerns of local residents in terms of parking stresses within the locality. However, these appear to principally relate to the dance school, which I understand is an established use, that has its own off-road parking. The management of that use and parking issues that may arise from it is not within the scope of the proposal before me to rectify.
14. Moreover, given the scale of the proposal for two one-bedroom flats and the reasonably good walking, cycling and/or public transport routes to day-to-day services locally it is highly likely that residents of the proposal would utilise such. Future occupiers would be fully aware that the dwellings were not served by allocated parking and be able to see the distances between local services and the appeal site. In such circumstances, it is not necessary for this small-scale proposal to provide parking on site.
15. I therefore conclude that the proposal would not result in any harm in respect of highway safety with specific regard to parking. The proposal would therefore accord with Policy 17 of the LP and Policy 10 of the CS, which, amongst other aims, seek to ensure that new developments should be designed to reflect the need to reduce the dominance of motor vehicles, provides, or is close to, community facilities, has good access to public transport, and encourages walking and cycling.

Other Matters

16. A number of concerns have been raised by interested parties. In terms of the impact on trees, these lie outside the appeal site, but conditions could be used to reduce the impact of the proposal on the roots of the trees. In terms of noise and dust created at the construction phase, a planning condition could be used to control such activities.
17. With regard to the loss of privacy for nearby occupiers, the proposed openings would overlook the public highway at Cyprus Avenue and Cyprus Drive and be separated by around 16 to 21 metres as shown on drawing 1013 002 Rev C. Given the gaps between the built form, I do not consider that the proposal would result in a level of overlooking that would be harmful to the privacy of their occupiers. Moreover, a planning condition could be used to prevent any flat roof areas being used as terrace or balcony, which would reduce the potential for overlooking further.
18. Taking into consideration all matters raised by interested parties, I do not find, whether individually or cumulatively, these provide justification for the dismissal of the appeal proposal.

Conditions

19. The council has suggested seven conditions within its Appeal Statement. I have considered these in light of Paragraphs 55 and 56 of the Framework, and the guidance contained within the national Planning Practice Guidance. The Appellant confirmed by email dated 27 May 2022, that they were 'satisfied' with the use of pre-commencement conditions where suggested.
20. Conditions requiring the development to be started within three years and be built in accordance with the submitted drawings are reasonable and necessary to provide certainty. A condition requiring investigative surveys is reasonable given the uncertainty of what may have previously been stored on the site in connection with the garages and in the interest of public health and safety for future and nearby occupiers.
21. A condition requiring the submission of a tree survey, including details of protective fencing and methods of construction within any root protection areas is necessary and reasonable in order to preserve nearby trees in accordance with s197 of the TCPA 1990 as amended.
22. The submission and approval of materials and landscaping scheme by conditions by the local planning authority is reasonable in order to ensure the external appearance of the building contributes positively to the public realm.
23. Lastly, a condition preventing the flat roofs to be used as balconies or similar amenity space is necessary to ensure that the privacy of nearby occupiers is protected.

Conclusion

24. For the reasons given above, I conclude that the proposal would accord with the adopted development plan and there are no material considerations indicating a decision otherwise than in accordance with it. The appeal should therefore be allowed.

C Parker

INSPECTOR

Appendix A - Conditions imposed

- 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: 1013 002 Rev C and 1013 003 Rev C.
- 3) No development shall commence above ground level until details / samples of the materials to be used in the construction of the external surfaces of the proposal 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 / samples.
- 4)
 - a) No part of the development hereby approved shall be commenced until an investigative survey of the site has been carried out and a report submitted to and approved in writing by the local planning authority. The survey must have regard for any potential ground and water contamination, the potential for gas emissions and any associated risk to the public, buildings and/or the environment. The report shall include details of any necessary remedial measures to be taken to address any contamination or other identified problems.
 - b) No building to be erected pursuant to this permission shall be occupied or brought into use until:-
 - (i) All necessary remedial measures have been completed in accordance with details approved in writing by the local planning authority; and
 - (ii) It has been certified to the satisfaction of the local planning authority that necessary remedial measures have been implemented in full and that they have rendered the site free from risk to human health from the contaminants identified.
- 5) No part of the development hereby approved shall be commenced until a tree survey has been submitted to and approved in writing by the local planning authority. The tree survey should outline the measures for protection of the trees including details of protective fencing and methods of construction within root protection areas. The works should be carried out strictly in accordance with the approved details.
- 6) No development above ground level shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. This scheme shall include the following:
 - (i) details of any works to existing trees and measures for their protection;
 - (ii) details of boundary treatments and bin stores; and
 - (iii) proposed hard surfacing treatments and
 - (iv) a timetable for implementation of the scheme.The landscaping scheme shall be carried out in accordance with the approved timetable.
- 7) No part of any flat roofs shall be used as a balcony, sun terrace, or similar amenity space.

***** END OF CONDITIONS *****