



Appeal Decision

Site visit made on 26 January 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12th July 2022

Appeal Ref: APP/N4205/W/21/3282641

62/60A Chorley Road, Westhoughton, Bolton BL5 3PZ

- 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 and Mrs K and E Komarow against the decision of Bolton Council.
 - The application Ref 10086/20 dated 17 December 2020 was refused by notice dated 12 February 2021.
 - The development proposed is the erection of one detached house (resubmission of 07936/20) 25/6/20 refusal.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on: (i) the character and appearance of the host dwellings and surrounding area; (ii) the living conditions of residents at Nos. 60-62A Chorley Road and Nos. 7-11 Ploughfields with regards to outlook, light, privacy, and noise and disturbance; and (iii) trees.

Reasons

Character and appearance

3. The site is the shared rear garden of Nos. 60A and 62 Chorley Road, neighbouring dwellings each belonging to a semi-detached pair. The wider area is mainly residential, with a range of property styles and plot sizes. However, Nos. 60-62A are experienced as a standalone group. They share an individual character with consistent style and scale of dwellings, and comparable long rear gardens that provide openness in the immediate area.
4. The proposal seeks to erect a two storey dwelling at the site. It would be experienced primarily in the context of Nos. 60-62A, against the backdrop of this consistent character and form. It would be distinguishable by its scale, significantly wider and deeper than each of the semi-detached dwellings. In addition, the proposed two storey outriggers would stand out against the simpler and modest dimensions of Nos. 60-62A.
5. Experienced alongside these dwellings, the proposal would read as a dominant structure, failing to reflect the immediate character, and appearing out of place. In addition, the significant reduction of the gardens at Nos. 60A and 62 and the introduction of a sizeable level of hardstanding would unduly impact

the uniformity at each pair of dwellings and the group as a whole, further highlighting the proposal as incongruous in context.

6. Although space would remain to the front and rear of the dwelling, the introduction of such a sizeable feature would upset the sense of openness. While it would be set back from the side boundaries it would nonetheless span much of the garden width, appearing cramped within the site. Alongside the large remaining rear spaces at Nos. 60 and 62A, this would appear visually disruptive, enclosing both the site and neighbouring plots.
7. The proposed development would therefore have a significant adverse effect on the character and appearance of the host dwelling and surrounding area. As such, it would fail to accord with Policies CG3 and OA3 of Bolton's Core Strategy Development Plan Document 2011 (DPD), which seek to ensure good design.

Living Conditions

8. The proposal would be situated directly behind Nos. 60A and 62 Chorley Road, and in front of dwellings at Ploughfields to the rear of the site. Section 3 of the General Design Principles Supplementary Planning Document (SPD) recommends distances between dwellings. While the proposal would comply with these, the SPD represents guidance rather than policy.
9. The proposal would inevitably create a change in outlook from Nos. 60A and 62, with habitable room windows facing the site. However, due to the landform the proposal would sit lower than these houses. A 1.8 metre close boarded fence would also be installed at the rear boundaries of Nos. 60A and 62. Combined with the separation distance, this would ensure the proposal would not appear overbearing or dominant from the rear windows or gardens at these dwellings. While views towards the proposal would be possible from rear windows and gardens of Nos. 60 and 62A, given the scale of the associated gardens and that the main outlooks towards these would remain, the impact on the outlook from the rear windows and gardens of these properties would not be unduly impacted.
10. The proposal would be slightly elevated compared to Nos. 7 – 11 Ploughfields, which abut the rear of the site. The intervening distance and boundary fencing would ensure the proposal would not be dominant from the rear gardens of these properties. In addition, due to the positioning of No. 11 Ploughfields the main outlook across the rear garden of No. 62A would remain such that it would not be unduly impacted by the proposal. However, the first floor windows at Nos. 7 and 9 would directly face the proposal, which would introduce a sizeable structure that would dominate the outlook, appearing overbearing. As such it would negatively impact occupiers' enjoyment of these rooms.
11. Acknowledging the orientation of the Chorley Road and Ploughfields properties and the different land levels at the site, due to the distance of the proposal from their boundaries and habitable windows, sunlight and ambient light would still enter these spaces. As such, the time they would be in shadow would not significantly increase. In addition, the intervening distance and boundary treatments would also ensure no significant overlooking or perceived overlooking of the properties or gardens on Ploughfields or Chorley Road.

12. Access would be taken between Nos. 60A and 62, extending the current driveways beyond the rear elevations. Associated traffic movements based on one dwelling would likely be limited. Nonetheless the proposal would result in vehicles turning, passing or parking close to the rear elevations and gardens of Nos. 60A and 62, including at night. The location of the drive and parking area would be markedly different to the prevailing relationship in this group where driveways are located to the side of dwellings. This would lead to an unacceptable increase in noise and disturbance at these properties. Due to the distance of this driveway and parking area from Ploughfields and Nos. 60 and 62A Chorley Road, I do not consider any such impact would occur at these properties.
13. The proposal would not harm the living conditions of occupiers of: (i) Nos. 60 and 62A Chorley Road and No. 11 Ploughfields with regards to outlook, light, privacy, or noise and disturbance; (ii) Nos. 60A and 62 Chorley Road with regards to outlook, light and privacy; (iii) Nos. 7 and 9 Ploughfields with regards to light, privacy or noise and disturbance. It would however have significant adverse effect on the living conditions of occupiers of: (i) Nos. 60A and 62 Chorley Road with regards to noise and disturbance; and (ii) Nos. 7-9 Ploughfields with regards to outlook.
14. As such, it would fail to comply with Policies CG3 and CG4 of the DPD, which seek to ensure development is compatible with surrounding land uses and occupiers.

Trees

15. A foundation trench would be dug within the root protection area (RPA) of a cypress tree at No. 60 Chorley Road. The tree canopy would require pruning, even following development, which could result in the removal of a large amount of leaf cover. The appellant has submitted an Arboricultural Impact Assessment. It identifies special working methods for construction within the RPA and states that guidance from BS5837 would be followed. This could be the subject of a specifically worded condition if planning permission were granted. I
16. In addition, the tree is not subject to a TPO and is identified as Category C, for the purposes of the British Standards categorisation scheme, such that it is of low quality. While the Council has raised concerns relating to landowner approval for the running of the tree, and the risk of a claim for damages, this would be a private matter between the parties. Overall, therefore, I do not consider that the risk of damage to this tree would be sufficient to justify withholding planning permission.
17. For the reasons given, the proposal would not have significant adverse effects on trees. As such, it would comply with Policy CG1.2 of the DPD, which seeks to safeguard and enhance biodiversity.

Other Matters

18. I acknowledge permission was granted for 2 dwellings in former garden land adjacent to No. 62A, and note a structure was being constructed during my visit. However, I have limited information on this. In any event, due to its side position that site does not form part of the rear garden spaces immediately and directly behind Nos. 60-62A that contribute to the consistent and individual character of this group in the same way as the appeal site. As such, it would not have the same effect on this immediate character or living conditions of residents neighbouring the site as the proposal.

19. The site is located near to the Grade II Listed St John's Church. However, due to the intervening distance and the variety of surrounding residential development in proximity to the church, the proposal would not result in undue harm to the significance of this asset or its setting.
20. The Council is unable to demonstrate a 5-year supply of deliverable housing sites. I would therefore consider the most important policies out of date and be taken to paragraph 11(d) (ii) of the National Planning Policy Framework (the Framework). This provides, in regard to the particular circumstances of this case, that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
21. The proposal would be contrary to requirements of the Framework in regard to both seeking to achieve well-designed places and a high standard of amenity, as a result of the harms I have found in regard to two of the main issues. I ascribe this harm substantial weight. The Framework does identify an objective to significantly boost the supply of housing, stating that small and medium sized sites can make an important contribution and that the development of windfall sites should be supported. I therefore attach some weight to the provision of housing and the associated benefits it could bring. Weight that would however be tempered by the scale of the appeal scheme.
22. As such, the adverse impacts of the proposal as a whole would be significant, and in the context of paragraph 11(d) of the Framework would together significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

23. The proposal would conflict with the development plan when it is read as a whole and material considerations, including the Framework, do not indicate that a decision contrary to the development plan should be reached. The appeal should therefore be dismissed.

C Rafferty

INSPECTOR