



Appeal Decision

Site visit made on 11 October 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2022

Appeal Ref: APP/M1005/W/22/3295636

77 Flowery Leys Lane, Alfreton DE55 7HA

- 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 H Rajabzadeh against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2021/0894, dated 9 August 2021, was refused by notice dated 16 December 2021.
 - The development proposed is a new 2-storey detached 3-bedroom dwelling on land adjacent to 77 Flowery Leys Lane
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. The appeal site is located within a predominately residential area and comprises the side garden of the existing property at 77 Flowery Leys Lane, a two-storey semi-detached dwelling. The site forms a corner plot at the junction of Normanton Avenue and Flowery Leys Lane. Dwellings which occupy corner plot locations have generally retained their more generous plot sizes and are set back from the highway, providing a spacious and open feel which contributes positively to the area.
4. The appeal proposal seeks the erection of a rectangular shaped two-storey detached dwelling, which would be located towards the site's eastern boundary and around 1 metre from the gable elevation of No 77. The proposed new dwelling would also protrude forward of the front elevation of No 77 by approximately 1.5 metres.
5. Whilst the appeal site would be capable of accommodating a dwelling with sufficient amenity space, the plots lack of depth combined with the short distance between the proposed dwelling and the gable elevation of No 77 would result in the development appearing cramped and uncomfortable causing harm to the character and appearance of the area.
6. Additionally, despite its modest size, design, and sympathetic use of materials, by virtue of its front elevation extending forward of the front elevations of the immediately adjacent properties on Flowery Leys Lane, the proposed dwelling would appear overly dominant within the street scene causing further harm to

- the character and appearance of the area. This impact would be further exacerbated by the site's exposed and prominent corner plot location.
7. The plots lack of depth also results in there being insufficient room for private garden space to be accommodated to the rear of the proposed dwelling. Consequently, this space would be predominately provided to the side of the dwelling fronting onto Normanton Avenue. Given the exposed nature of its corner plot location and to afford privacy to future occupiers, the proposed garden space to the side would be enclosed by a 1.8-metre-high wall. This wall would run flush with the front elevation of the proposed dwelling.
 8. I acknowledge that a timber fence measuring approximately 1.8 metres in height is located opposite the appeal site at 75 Flowery Leys Lane, however the prevailing form of boundary treatments at corner plots in the surrounding area are generally low-level fences or planting. Furthermore, although a lower-level fence extends around its front garden, the approximately 1.8-metre-high fence at No 75 fronts onto Normanton Avenue and does not extend beyond the front elevation of the dwelling, reducing its impact in the wider street scene.
 9. The proposed boundary wall would extend out further towards Flowery Leys Lane and beyond the existing front elevations of neighbouring properties, and as a result would appear as an overly dominant feature out of keeping with the character and appearance of the area. In particular, when approaching from the north-west along Flowery Leys Lane, the proposed wall would appear as an unduly large, dominant, and incongruous feature which would detract from the areas open and spacious character.
 10. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. The development would conflict with saved Policies LS3 and H12 of the Amber Valley Borough Local Plan (adopted 2006) (LP) which seek, among other matters, to ensure that development proposals respect the character of the locality in terms of the scale, nature, and layout of the development.

Other Matters

11. The Council has confirmed that, as of 1 April 2022, it can demonstrate a 9.31-year housing land supply. This has not been disputed by the appellant. The Council however refers to paragraph 11d) ii) of the National Planning Policy Framework (the Framework), with particular regard to saved Policy H3 of the LP which the Council considers to be out of date. This policy relates to the provision of housing development within urban areas and larger villages.
12. However, the site is located within an urban area and the principle of the development is not disputed. The development plan policies that I have found a conflict with relate to the quality and design of the development and the surrounding environment rather than strictly to the supply of housing. I consider that these policies are broadly consistent with the Framework and are not out of date when regard is paid to paragraph 11d) of the Framework. Accordingly, I consider that there is no reason why the development plan's policies that are most important for the determination of this appeal should not be afforded substantial weight.
13. Furthermore, even if the policies that are most important for the determination of this appeal were considered to relate to housing supply, which I consider

they are not, the limited benefits that would arise from the provision of a single new dwelling would be significantly and demonstrably outweighed by the significant harm to the character and appearance of the area that I have identified, which is a matter that the Framework seeks to protect. Therefore, the proposal would not benefit from the presumption in favour of sustainable development, even if paragraph 11d) ii) were to be engaged.

14. The appellant has referred to other developments previously approved by the Council¹ which he considers are similar to the appeal proposal. Whilst I do not have the full details of these cases before me, from the information provided there appears to be differences between them and the appeal scheme including their siting and location, with one case relating to the erection of a side extension to an existing dwelling. In any event, each case has to be assessed on its own merits. Accordingly, the presence of the approved schemes does not justify the harm which I have identified that the appeal proposal would cause.

Conclusion

15. The proposal would conflict with the development plan and there are no material considerations which would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

David Jones

INSPECTOR

¹ Council references AVA/2016/0770, AVA/2017/0820 and AVA/2020/0254