



Appeal Decision

Site visit made on 18 October 2022

by C Megginson BA(hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2022

Appeal Ref: APP/N4720/W/22/3304057

20 Deighton Road, Wetherby LS22 7TE

- 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 Hopkins and Mr Manton against the decision of Leeds City Council.
 - The application Ref 21/08474/FU, dated 6 October 2021, was refused by notice dated 17 June 2022.
 - The development proposed is described as the Demolition of existing bungalow and garage and erection of 5no. residential dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The appropriate mix of dwellings;
 - The delivery of biodiversity net gain and landscaping;
 - The living conditions of the occupiers of the proposed dwellings, with particular regard to outlook and in addition to Plot 1, with particular regard to outlook and privacy; and
 - The living conditions of the occupiers of the neighbouring properties at 17 and 19 Priory Close, with particular regard to privacy and 33 Templar Gardens, with particular regard to outlook and light.

Reasons

Character and appearance

3. The appeal site contains a bungalow, set well back from the road with a large front garden. Deighton Road is a busy road with predominantly residential properties to both sides. Rear gardens with stone boundary walls and high vegetation front the road to the west, whereas on the eastern side of the road, where the appeal site lies, the road is characterised by large dwellings and commercial properties, facing and sitting well back from the road within spacious plots.

4. A block of apartments also lies on this side of the road. Whilst this is a higher density form of development, it remains set back from the road, with car parking to the front and its position within the plot retains a spacious, open feel. Whilst the building line along this part of Deighton Road varies, all properties are set some distance back from the road and planting along front boundaries gives the road a verdant character.
5. The appeal proposal would include five detached, three storey dwellings, each with a detached or semidetached garage and driveway. Plot 1 would face the road in a similar manner to adjacent properties, however, it would sit noticeably further forward of the building line of other properties along this part of Deighton Road. The distance to the pavement would be marginally below the guidelines set out in the Council's Neighbourhoods for Living design guide for new residential developments. In the context of the spacious frontages of Deighton Road, the small frontage would stand out as unexpected. In addition, the lack of space to create a landscaped frontage to the scheme would detract from the verdant nature of the street scene.
6. With the exception of No 35, properties in Templar Gardens sit closer to the front pavement; however, the appeal site forms part of the frontage onto Deighton Road and is not viewed in the context of the building line of these properties. Similarly, whilst I acknowledge that there are properties along parts of Deighton Road that sit much closer to the pavement, these are located some distance away and do not relate to the appeal site surroundings. The bungalows on the corner of Sandbeck Lane and Deighton Road are set well back from the pavement due to a large grass verge and are not viewed within the context of the appeal site.
7. Plot 2 would lie directly behind and with its side in close proximity to Plot 1, and Plots 3, 4, and 5 would sit in a line to the rear of the site. The layout, three storey height and close proximity of the five dwellings to each other and to the site boundaries, would result in built form all but filling the appeal site, appearing crowded and eroding the spaciousness of the street scene. The juxtaposition of buildings would be disjointed and the layout illogical, resulting in an incongruous form of development that would be visible from Deighton Road.
8. I appreciate that the proposed housing density is broadly in line with the requirements of Policy H3 of the Leeds Core Strategy (2019) (Core Strategy), nevertheless, the proposed five dwellings would result in a form of development that would be at odds with the spacious character of the surrounding area. They would appear prominent and inharmonious within the street scene and would unacceptably harm the character and appearance of the area. As such, the appeal scheme would conflict with Policies P10 and P12 of the Core Strategy (2019), Saved Policy GP5 of the Leeds Unitary Development Plan Review (2006) (UDP) and Policy H2 of the Wetherby Neighbourhood Plan (2020), which require new development to respect the character and appearance of the main dwelling and the locality.
9. The proposal would also be contrary to the National Planning Policy Framework (The Framework), which states in paragraph 130 that planning decisions should ensure that developments will add to the overall quality of the area and are sympathetic to local character.

Appropriate mix of dwellings

10. The appeal scheme is for five 4-bed dwellings. Policy H4 of the Core Strategy seeks, in summary, to ensure *'an appropriate mix of dwelling types and sizes to address needs measured over the long-term taking into account the nature of the development and character of the location.'* Whilst the Strategic Housing Market Assessment (SHMA) that the policy relies on dates back to 2011, Policy H4 was adopted in 2019 and therefore can be considered up to date.
11. The preferred housing mix set out in the policy is a target of 10% of dwellings on new housing developments to be four-bedroom plus, with a maximum percentage of 50%. In addition, the Wetherby Neighbourhood Plan (2020) includes a housing market assessment summary, which relates to combined demand and need and finds that 48.2% of total demand will be for homes with 3 bedrooms or more.
12. Policy H4 is worded to offer flexibility and the supporting text states that for *'small developments, achievement of an appropriate mix to meet long term needs is not overriding.'* Whilst this is not overriding, I have no evidence to suggest that the policy does not apply to small developments. The 2017 SHMA housing demand review reports a shortfall in Wetherby of many types of property, including four bed detached dwellings.
13. I appreciate that in recent years people may have sought larger homes to enable home working and that the area is one where four-bedroom homes are common. However, I have no evidence before me to demonstrate that the nature of the development or the character of the location justifies a lack of housing mix in this case. The appeal scheme would therefore not provide for an appropriate mix of dwellings and would not comply with Policy H4 of the Core Strategy or the Framework.

Biodiversity net gain and landscaping

14. Core Strategy Policy G9 requires developments to demonstrate that there will be an overall net gain for biodiversity, commensurate with the scale of the development. The Council's 'Guidance for developers to achieve net gain for biodiversity in Leeds' (2020) states that small applications, such as single dwellings, or where it has been agreed that biodiversity metric calculations will not be applied due to very low ecological baseline value, will be expected to demonstrate general biodiversity enhancements. However, a proposed development of five dwellings is not a small application and I have no evidence to demonstrate that the site has a very low ecological baseline value, therefore, Policy G9 applies.
15. There is no specific target for the extent of such net gain, nevertheless, a biodiversity metric has been completed for the appeal scheme which shows a net loss on the site of 65% habitat units. The extensive hard surfacing as part of the appeal proposal and the limited proposed landscaping would therefore result in a reduction to the biodiversity value of the site.
16. The Council states that there are no local mechanisms available for commuted sums to be paid for offsite improvements as an alternative to on site provision. General biodiversity enhancements are proposed such as bat roosting and bird nesting features, however, these do not compensate for the loss to biodiversity

on the site. I have insufficient evidence before me with regards to the impact of the proposals on the Leeds Habitat Network.

17. The appellant has highlighted inconsistency in the Council's application of Policy G9 to other developments. I have insufficient evidence with regards to these examples, therefore, I have considered this appeal scheme on its own merits and find that the appeal scheme does not provide an overall net gain for biodiversity and therefore conflicts with Policy G9 of the Core Strategy and the biodiversity enhancement aims of the Framework.
18. The proposed landscaping includes shrub planting within narrow margins along the access road and tree planting in close proximity to the built development. The limited space available would reduce the potential for such planting to successfully establish. However, even if it could become established, when compared to the amount of hard surfaces and built development on the site, the proposed landscaping would not reflect the scale and form of adjacent landscaping or the verdant character of the area. This would conflict with Policy LD1 of the UDP, Policy P10 of the Core Strategy, the Council's Neighbourhoods for Living Supplementary Planning Guidance (SPG), Guideline Distances to Trees document and the Framework which seek to ensure an appropriate scale of landscaping for new development.

Living conditions of the occupiers of the proposed dwellings

19. The SPG sets out traditional guide distances that ground floor main living/dining windows should be a minimum 10.5 metres to the rear boundary. The Council state that none of the proposed dwellings meet these minimum guidelines. This is disputed by the appellant who states that only Plot 3 falls short of the guideline distance by 1 metre. From the site layout, it appears that the proposed dwellings at Plots 3, 4 and 5 lie at a similar distance to their rear boundaries. The close proximity of the rear boundary fences to the ground floor main living areas, combined with the narrow plot widths and location of the garages adjacent to the rear gardens, would give rise to unacceptable harm to the occupiers of the proposed dwellings, with particular regard to outlook.
20. In addition, as noted above, the front elevation of Plot 1 sits 3.6 metres from the pavement on Deighton Road, where the SPG minimum guideline distance is 4 meters. I appreciate that the distances are guidelines and Plot 1 is outside the guideline by a relatively small amount. I also recognise that the proposed boundary treatment would offer some screening, however, due to the orientation and design of Plot 1, both the main living and dining room windows would face directly onto the pavement. Deighton Road is a busy B-road and a main route out of Wetherby town centre and therefore the close proximity to the pavement would unacceptably harm the outlook and privacy of the occupiers of Plot 1.
21. The appellant has provided details of a development at Welburn Cottage, where the approved dwellings are 2.7 metres from the footpath of Deighton Road. I do not have the floor plans, however, from the evidence, it appears that the dwellings fronting Deighton Road have their main living areas to the rear. They do not appear to be directly comparable to Plot 1, which features two main windows to the front elevation. Similarly, the example cited at Norton Road features kitchen windows facing Deighton Road, with main living area windows/patio doors to the rear.

22. The unacceptable harm to the occupiers of the proposed dwellings, with particular regard to outlook and in addition to Plot 1, with particular regard to outlook and privacy would conflict with the amenity protection aims of Policy P10 of the Core Strategy, Saved Policies GP5 and BD5 of the UDP, the SPG and the Framework.

Living conditions of the occupiers of neighbouring properties

23. The Council's guideline distance from a first-floor bedroom window to boundary is 7.5 metres and this distance would be met for each dwelling. The dwellings would also meet the required distance from their rear elevations to the rear elevations of both No 17 and No 19 Priory Close. The SPG applies an additional distance of 3 metres for each storey above the first floor. The proposed dormer bedroom windows would be under 10.5 metres from the boundary with No 17 and No 19. This would result in overlooking to the rear garden areas of No 17 and No 19.
24. The SPG guideline is 2.5 metres from a side elevation to the site boundary. Plot 3 has a separation distance of 1.5 metres from the rear boundary of 33 Templar Gardens. Whilst the distance between the elevations of the two properties would exceed the SPD guidelines, No 33 is a single storey property, which sits at a lower level than the appeal site. The side elevation of the proposed dwelling would cover the entire rear boundary of No 33 and its overall bulk and height, combined with the difference in site levels and proximity to the boundary, would have a significant enclosing effect on the outlook from the rear of No 33 and appear dominant and overbearing.
25. In addition, Plot 3 would sit directly to the south of No 33, which would overshadow the garden of No 33 for significant portions of the day, particularly in the winter months. In these circumstances, I conclude that the loss of light and the overbearing outlook would cause significant and unacceptable harm to the living conditions of the occupiers of 33 Templar Gardens. In addition, the overlooking of the gardens of No 17 and No 19 Priory Close would cause harm to the privacy of the occupiers of these properties. The proposal would conflict with the amenity protection aims of Policy P10 of the Core Strategy, Saved UDP Policies GP5 and BD5, the SPG and the Framework.

Other Matters

26. The site is sustainably located and would constitute a windfall site that would contribute to housing supply; however, this does not outweigh the harm that I have identified.

Conclusion

27. The appeal scheme would conflict with the development plan. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

C Megginson

INSPECTOR