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# Appeal Decision

Site visit made on 6 December 2022

**by A Berry MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 December 2022**

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**Appeal Ref: APP/P3040/W/22/3301568**

**Melton Court, 7 Melton Road, West Bridgford NG2 7NW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Mr Surrender Bhart against Rushcliffe Borough Council.
  - The application Ref 21/02379/FUL, is dated 17 August 2021.
  - The development proposed is the erection of a 1 x 2-bedroomed apartment, (resubmission of 21/02262/FUL) at land to the rear of 7 Melton Road, West Bridgford, Nottinghamshire.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The description of development, as detailed in the banner heading above, is taken from the appellant's appeal form. This description of development was agreed by the main parties during the consideration of the planning application due to changes made to the proposal. I have therefore determined the appeal on this basis.
3. Following the submission of the appeal against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission, the Council has clarified the position it would have taken on the application if it had had the opportunity to make the decision. The appellant has had the opportunity to comment on this information and has therefore not been prejudiced. I have therefore determined the appeal on this basis.
4. During the consideration of the planning application various drawings were submitted that amended the proposed development. For the avoidance of doubt, this decision is based on drawing number 002 Revision H.

## Main Issues

5. The main issues are the effect of the proposed development on:
  - the character and appearance of the surrounding area;
  - the living conditions of the occupiers of neighbouring properties, in respect of light, privacy, outlook and parking; and
  - the living conditions of the future occupiers of the proposed dwelling, in respect of private amenity space and parking.

## Reasons

### *Character and Appearance*

6. The appeal site consists of land to the rear of 7 Melton Road and the existing vehicle access/driveway onto Melton Road. No 7 comprises a three-storey detached building that is sub-divided into flats. It is set back from Melton Road by a front garden that is used for vehicle parking. The properties in the vicinity of the appeal site that front onto Melton Road and the southern side of Patrick Road predominantly comprise imposing detached and semi-detached buildings that have pitched roofs and contain such features as forward-facing gables, bay windows, stone headers and cills, stone door surrounds and decorative detailing. To the rear of the appeal site, off Patrick Road, is a backland development of three bungalows constructed of buff brick with pitched roofs.
7. The proposed dwelling would be sited within the northern part of the appeal site, adjacent to the boundaries shared with 5 Melton Road and 10B Patrick Road. The southern part of the appeal site would provide 5 parking spaces for the existing flats, with an area of tarmac for the turning of vehicles located in front of the proposed dwelling.
8. The proposed dwelling would be single storey with a mono-pitch roof, constructed of brick with aluminium cladding positioned between three floor-to-ceiling windows in the front elevation. The internal floor level of the proposed dwelling would be raised above the existing ground level to comply with the Environment Agency's requirements in respect of flood mitigation measures, and therefore a flight of steps is positioned to the western side of the proposed building, adjacent to the rear elevation of No 7.
9. The design of the proposed dwelling has been significantly diluted since the planning application was first submitted and now comprises a functional and almost featureless box that is more akin to a commercial, rather than domestic, building. Except for the use of red brick, the proposed dwelling would not reflect the prevailing character or appearance of the surrounding area. The appellant considers the proposal reflects the character and appearance of the backland development of bungalows to the rear of the appeal site. Although these bungalows are single storey, their character significantly differs from the appeal proposal as they are more characterful, have pitched roofs and are domestic in appearance.
10. The appeal site does not include any private amenity space for the proposed dwelling, the proposed parking spaces would be of a limited size that would restrict the size of vehicle that could use them, and the submitted vehicle tracking drawing indicates that the proposed turning space would require a vehicle to undertake a significant number of manoeuvres to exit a space. This indicates that the proposed development would be cramped and out of character with the surrounding area.
11. In reference to the first main issue, the proposed development would adversely affect the character and appearance of the surrounding area, contrary to Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy, adopted 2014 (CS) and Policies 1 and 11 of the Rushcliffe Local Plan Part 2: Land and Planning Policies, adopted 2019 (LP). Together, these policies seek, amongst other things, to ensure that proposals are of a high standard of design and sufficient space is provided within the site to accommodate the proposal together with ancillary

amenity and circulation space. The proposal would also be contrary to the National Planning Policy Framework (NPPF) that seeks to achieve well designed places.

*Living Conditions of the Occupiers of Neighbouring Properties*

12. The proposed dwelling would be sited in close proximity to the northern boundary shared with 5 Melton Road. The boundary treatment varies in height along its length. No 5 comprises a semi-detached dwelling with a garden to the rear that is partly laid to lawn and partly used for the parking of vehicles.
13. The proposed dwelling would span almost the full depth of the appeal site. The dwelling's mono-pitched roof would be lower adjacent to No 5. However, due to the raised internal floor level, a significant proportion of the proposed dwelling would be visible above the boundary treatment. This would result in the rear garden of No 5 being almost completely enclosed by built development along its southern boundary, adversely affecting the outlook of its occupiers. Furthermore, the overall height, massing and expanse of the proposed dwelling, its proximity to the boundary shared with No 5, and its siting to the south of No 5's rear garden, would result in significant overshadowing to this property's rear garden.
14. There would be three windows within the rear elevation of the proposed dwelling that would be in close proximity to the boundary shared with No 5. The windows would serve a bathroom, a hall and an open-plan living room. A condition requiring these windows to be obscure glazed and fixed shut would protect the privacy of the occupiers of No 5. Ventilation to the open-plan living room could be provided by other openings and a mechanical ventilation system could be used in the kitchen area without adversely affecting the living conditions of future occupiers.
15. The proposed dwelling would be sited in close proximity to the eastern boundary shared with 10B Patrick Road. No 10B comprises a detached bungalow. Its rear elevation faces towards the appeal site, and it has a shallow rear garden. The boundary treatment comprises a closed boarded fence that is marginally lower than the eaves of No 10B.
16. The proposed dwelling would span approximately half of the width of No 10B's rear garden and given the height of the proposed dwelling due to the raised internal floor levels, a significant proportion of the proposed dwelling would be visible above the boundary treatment. The overall height, massing and siting of the proposed dwelling would be imposing to the occupiers of No 10B and would significantly enclose the shallow rear garden of the bungalow, adversely affecting outlook. The proposed dwelling would be sited to the west of No 10B and therefore would result in some loss of sunlight to No 10B's rear garden later in the day. However, this would not be to a significant degree that would adversely affect the living conditions of the occupiers of this property.
17. The appeal site is currently used for informal off-street parking for the occupiers of the flats within 7 Melton Road. The space allows for vehicles to park, turn and exit the site in a forward gear with relative ease. The proposed development would result in a formalised parking area, with one parking space for each flat within the host building. The proposed spaces would only be usable for a limited size of vehicle due to their proportions. The turning space would be significantly reduced, with the vehicle tracking shown on the

submitted drawing indicating that vehicles would need to make several manoeuvres to exit a space. This would result in an inconvenience to the occupiers of the host dwelling but would not be so significant to adversely affect their living conditions.

18. In reference to the second main issue, the proposed development would not adversely affect the living conditions of the occupiers of 7 Melton Road. However, it would adversely affect the living conditions of the occupiers of 5 Melton Road in respect of outlook and a loss of sunlight and 10B Patrick Road in respect of outlook. This would be contrary to Policy 10 of the CS and Policies 1 and 11 of the LP which together, amongst other things, seek to ensure that developments would not cause a significant adverse impact on the amenity of nearby residents and occupiers. The proposal would also be contrary to the NPPF that seeks to create places with a high standard of amenity for existing users.

#### *Living Conditions of Future Occupiers*

19. Although described as an 'apartment' in the description of development, the proposal is for a detached two-bedroom dwelling. Therefore, in accordance with the Rushcliffe Residential Design Guide Supplementary Planning Document adopted 2009 (SPD), rear gardens should have a depth of 10m to the boundary and a garden size of 110sqm for detached properties. If these sizes cannot be met, developers are required to explain why a smaller garden is acceptable. It goes on to add that gardens smaller than the footprint of the dwelling are unlikely to be acceptable. No garden is proposed as part of the development, contrary to the SPD.
20. Even if the proposal was considered to comprise an apartment, the SPD states that for apartments a private or communal garden/outdoor amenity space is desirable and should be provided where practicable, and that at least part of all gardens should allow for sitting out, in sunshine, during some of the day, preferably in the afternoon or evening. I have not been provided with evidence to suggest that the provision of a communal garden/outdoor amenity space is not desirable or practicable.
21. The proposed dwelling would have two bedrooms and therefore it is reasonable to assume that it could accommodate a small family, a retired couple or young professionals. The lack of a garden for activities to take place such as to allow children to play, to allow for the drying of clothes, or the siting of a table and chairs would result in a low standard of living conditions for the future occupiers of the proposed dwelling. The proposed development would be in proximity of public open space however, this would not overcome the lack of private amenity space for future occupants.
22. No off-street parking space is to be provided for the proposed dwelling and the section of Melton Road to the front of No 7 is subject to a Traffic Regulation Order that prevents on-street parking at any time. However, a bus stop is located immediately in front of the host dwelling and the appeal site is within walking and cycling distance of the centre of Nottingham by well lit routes. The lack of off-street parking for future occupiers of the proposed dwelling would therefore not result in adverse living conditions.
23. In reference to the third main issue, the absence of off-street parking for future occupiers would not result in adverse living conditions for future occupiers due

to the appeal site's proximity to shops, services and facilities. However, the proposed development would adversely affect the living conditions of future occupiers due to the lack of private amenity space. This would be contrary to Policy 10 of the CS and Policy 1 of the LP which together, amongst other things, seek to ensure that sufficient space is provided within the site to accommodate the proposal together with ancillary amenity space. The proposal would also be contrary to the NPPF that seeks to create places with a high standard of amenity for future users.

### **Other Matters**

24. The provision of one dwelling weighs in favour of the proposal and would make a contribution, albeit limited, to the Government's objective of significantly boosting the supply of new homes. Furthermore, there are some modest benefits from the location of the appeal site close to public transport links and within walking and cycling distance of the centre of Nottingham with its shops, services and facilities which would result in future occupiers not being reliant on the private car for their day-to-day needs. However, these matters do not outweigh the harm that would be caused to the character and appearance of the area and to the living conditions of future occupiers and the occupiers of neighbouring properties, matters to which I give substantial weight.
25. The appellant has directed me to examples of developments that they consider are similar to the appeal proposal. However, I note differences between these examples and the appeal proposal such as one comprising an extension to an existing building, the relationship of the developments to the surrounding properties and the provision of private amenity space. In any event, each appeal must be determined on its own merits.
26. One letter of support was received from an occupier of the host building as they considered the proposal would improve the appearance of the area, with no comments received from the occupiers of other neighbouring properties. However, I am not persuaded that the appeal proposal is the only means of enhancing the outdoor space associated with 7 Melton Road and the lack of comments from other occupiers does not infer no objection.
27. The appellant states that the proposed dwelling would occupy most of the existing footprint of an old coach house that was demolished. However, I have not been provided with details of the scale of that building. Even if the former building's scale was comparable to the proposed dwelling, the building no longer exists, and the proposed building's use would likely differ.
28. Concerns regarding the Council's consistency in handling planning applications and how they have dealt with the planning application have no bearing on my consideration of the planning merits of the proposed development.

### **Conclusion**

29. For the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal is dismissed and planning permission is refused.

*A Berry*

INSPECTOR