



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: 5 January 2023

Appeal Ref: APP/A3010/W/22/3303203

Former Garage Site, Grange Close, Misterton, Nottinghamshire DN10 4EN

- 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 Messrs Noble & Wallace against the decision of Bassetlaw District Council.
 - The application Ref 22/00160/FUL, dated 3 February 2022, was refused by notice dated 26 April 2022.
 - The development proposed is for a residential development for 4no one bed dwellings.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the living conditions of future occupiers of the proposed dwellings in respect of an overdevelopment of the site; and
 - the living conditions of the occupiers of existing properties in respect of outlook and privacy.

Policy Background

3. The Bassetlaw District Local Development Framework Core Strategy and Development Management Policies DPD (CS) was adopted in 2011. Annex 1 of the National Planning Policy Framework (NPPF) states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Instead, due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). Policy DM4 of the CS is consistent with paragraph 130(f) of the NPPF which, amongst other things, seeks to create places with a high standard of amenity for existing and future users. I therefore attach full weight to Policy DM4 of the CS.

Reasons

Living Conditions of the Future Occupiers of the Proposed Dwellings

4. The proposed development would comprise two pairs of semi-detached, two-storey dwellings, each with one bedroom and one storage room to the first floor. Each dwelling would have a rear garden. The site would be accessed from Grange Close via a single width driveway that would include 6 parallel parking

spaces located adjacent to the northern site boundary. A turning head would be positioned in front of the proposed dwellings to allow vehicles to exit the appeal site in a forward gear.

5. The Successful Places: A Guide to Sustainable Housing Layout and Design Supplementary Planning Document, adopted 2013 (SPD) states that for 1 and 2 bedroomed houses, the minimum outdoor amenity space requirement for each dwelling is 50sqm. The Council consider the proposed gardens would each measure between 32sqm and 40sqm. This is not disputed by the appellant. The gardens would be located to the south of each dwelling and therefore would benefit from high levels of sunlight. However, the provision would fall below the minimum garden size set out in the SPD. Due to the very constrained size of the proposed gardens, this would result in a substandard level of private amenity space which would be unlikely to provide for the needs of most future occupiers. There is an area of open space within walking distance of the appeal site, however, it is not private amenity space, and the SPD does not state that a reduction in the minimum garden size can be offset by existing areas of open space.
6. Policy 2 (2) of the Misterton Neighbourhood Plan 2018-2035, adopted 2019 (MNP) states that where practicable, plot sizes should be large enough to accommodate a minimum of two off-street parking spaces, or otherwise any lower standards to meet the requirements set out in the most up-to-date 'Parking Standards' document adopted by the Council. The proposed development would provide one parking space per dwelling and two visitor parking spaces, which would comply with the parking standard detailed within the Bassetlaw District Council's Residential Parking Standards Supplementary Planning Document adopted 2012.
7. The submitted vehicle tracking drawing indicates that the proposed turning head would allow vehicles to exit the site in a forward gear. However, it would require a vehicle to undertake a significant number of manoeuvres that would likely lead to driver frustration and could force vehicles to reverse onto Grange Close. I note that the Highways Authority have not objected to the proposal, and I do not consider that this matter would be so acute as to give rise to concerns relating to highway safety. Nevertheless, the constrained nature of the parking layout indicates, to my mind, that the proposal exceeds the capacity of the site to comfortably accommodate it.
8. The failure to provide adequate garden space and the reduced manoeuvrability for vehicles to exit the appeal site in a forward gear indicate that the proposed development would be an overdevelopment of the site. The deficiency in garden space on its own would have a detrimental effect on the living conditions of future occupiers. This would be contrary to Policy DM4 of the CS and Policies 1 and 2 of the MNP which together, amongst other things, seek to ensure that new developments do not have a detrimental effect on the residential amenity of nearby residents and provides a decent standard of private amenity space. The proposal is also contrary to the SPD and the NPPF.

Living Conditions of the Occupiers of Existing Properties

9. The proposed dwelling on Plot 1 would be sited adjacent to the boundary shared with No 33 and 35 Grange Close. No 33 and 35 comprise a pair of semi-detached, two-storey dwellings sited on a similar ground level to the appeal site. Their rear elevations have habitable windows that directly face towards

the appeal site, with their rear gardens extending up to the boundary shared with the appeal site.

10. The proposed dwelling on Plot 1 would comprise a semi-detached two-storey property, with the first floor partially within the roof space, resulting in a lower eaves and ridge height. It would be positioned close to the boundary shared with No 33 and 35, with its gable side elevation facing towards the neighbouring properties. The proposed dwelling would span almost the full width of No 35's rear garden, and part of No 33's rear garden. The proximity of the proposed dwelling on Plot 1 to the boundary shared with No 35, together with its scale, massing and siting, would dominate views from No 35 and this would adversely affect the outlook of the occupiers of this property. However, the siting of the proposed dwelling on Plot 1 would ensure that the living conditions of the occupiers of No 33 would not be unduly compromised.
11. The proposed dwelling on Plot 4 would be sited adjacent to the boundary shared with 3 and 4 Grovewood Close. No 3 and 4 comprise detached dormer bungalows with conservatories to the rear. Their rear elevations have habitable windows that directly face towards the appeal site, and they have relatively shallow rear gardens that extend up to the boundary shared with the appeal site. No 3 and 4 are located on a higher ground level than the appeal site.
12. The proposed dwelling on Plot 4 would comprise a semi-detached two-storey property, with the first floor partially within the roof space, resulting in a lower eaves and ridge height. It would be positioned close to the western boundary shared with No 3 and 4 and the northern boundary shared with No 3. The gable side elevation of the proposed dwelling would be adjacent to a large proportion of No 3's rear garden, and part of No 5's rear garden. The front elevation of the proposed dwelling would also directly face the rearmost section of No 3's rear garden to the north.
13. The proximity of the proposed dwelling on Plot 4 to the boundaries shared with No 3, together with its scale, massing and siting, would dominate views and adversely affect the outlook of the occupiers of this property. Furthermore, the proximity and positioning of the first floor front bedroom window would unduly overlook the No 3's rear garden, adversely affecting the privacy of the occupiers of this property. However, the siting of the proposed dwelling on Plot 1 would be less intrusive and therefore the living conditions of the occupiers of No 4 would not be unduly compromised.
14. The appellant states that the proposed dwellings comply with the separation distances detailed within Table 3 of the SPD, which is not disputed by the Council. However, paragraph 3.11.4 of the SPD explains that these distances are to ensure reasonable levels of privacy and daylight, not outlook.
15. In reference to the second main issue, the proposed development would have a detrimental effect on the living conditions of the occupiers of existing properties in respect of outlook and privacy. This is contrary to Policy DM4 of the CS and Policies 1 and 2 of the MNP. Together, these policies, amongst other things, seek to ensure that new development does not have a detrimental effect on the residential amenity of nearby residents. The proposal is also contrary to the SPD and the NPPF.

Other Matters

16. The appellant has directed me to a previous planning approval¹ at the appeal site for the erection of three supported-environment apartments and a single storey staff block. Evidence has been provided that the footings of one of the approved buildings has been undertaken but the appellant also states that the pre-commencement conditions detailed within the Council's decision notice were not complied with. One such condition is in respect of land contamination due to the site's former use as residential garages. Therefore, it is unclear whether the previous planning approval was lawfully commenced. Notwithstanding this, the proposal is for a different type of development and whilst it is recognised that the previously approved main building would have a greater eaves and ridge height than the appeal proposal, it would not be sited as close to the boundaries shared with neighbouring properties and it would be orientated differently within the plot. The appellant suggests that the proposed development is an improvement over the previously approved scheme in terms of its impact on the living conditions of the occupiers of neighbouring properties. However, for the reason detailed above, I disagree.
17. The appeal site is located within the Development Boundary of Misterton, with Misterton defined as a Local Service Centre. The appeal site is therefore close to shops, services and facilities that would enable the day-to-day needs of future occupiers being met which weighs in favour of the proposal. In addition, the proposal would result in the provision of four one-bedroomed dwellings which would make a moderate contribution to the Government's objective of significantly boosting the supply of new homes and the supply of smaller dwellings within Misterton.
18. The proposal would make use of a small brownfield site within the built-up area which paragraph 120 of the NPPF states should be given substantial weight. However, this should not be at the expense of adversely affecting the living conditions of existing occupiers of neighbouring dwellings or the future occupiers of the proposed dwellings, contrary to the amenity objectives of the NPPF, matters which I also give substantial weight. Furthermore, I am not persuaded that this is the only scheme that could re-use the appeal site, particularly given the previous planning approval, which I have found would not be detrimental to the living conditions of existing occupants. The development would not adversely affect the character or appearance of the surrounding area or highway safety however, these are neutral matters.
19. Concerns have been raised regarding the consistency of the Parish Council's comments and whether the Council worked positively and proactively with the appellant. However, these have no bearing on my consideration of the planning merits of the development.

Conclusion

20. For the reasons given above, the appeal scheme would conflict with the development plan as a whole and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

A Berry INSPECTOR

¹ Planning Ref: 33/11/00053