



Appeal Decision

Site visit made on 7 February 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2023

Appeal Ref: APP/M4320/W/22/3304165

14 Rosemary Lane, Formby L37 3HB

- 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 Ian Lyons against the decision of Sefton Council.
 - The application Ref DC/2021/02085, dated 22 July 2021, was refused by notice dated 25 February 2022.
 - The development proposed is a new build 5 bedroom detached house with detached garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development: i) on the character and appearance of the area, ii) on the living conditions of the neighbouring occupiers with regard to privacy, and iii) on protected species.

Reasons

Character and appearance

3. The appeal property is a semi-detached dwelling which is situated in a predominantly residential area. It is a two-storey building which is set back from the road on a broadly consistent building line to other dwellings along Rosemary Lane. The setback of buildings behind front garden areas, many of which contain vegetation and low boundary walls, together with views of trees in rear garden areas, contribute to the spacious and verdant character of the area.
4. The proposed detached dwelling would be set behind the existing building in the large rear garden area. This siting, as well as the scale of the proposal which would extend across most of the width of the plot, and be predominantly two storeys in height with accommodation in the roofspace, would be uncharacteristic of the surrounding pattern of development which comprises of smaller garden buildings and other structures to the rear of main dwellings that are generally set on established building lines.
5. The appellant considers the character of the appeal development is more closely related to Sunningdale Gardens than Rosemary Lane. I note the relevant distances from the proposed building to the nearest property on each of these roads. The proposed development would nevertheless be accessed from the latter and have a closer relationship to Rosemary Lane. In any event,

the properties on Sunningdale Gardens, all have a road frontage unlike the proposal, which would be situated in a backland location.

6. The existing dwelling at 14 Rosemary Lane would retain a generously sized rear garden and separation from the proposed dwelling. It would nonetheless be seen from this and a number of neighbouring properties, from where it would appear as a visually prominent addition that would harm the spacious character of the area. Although the external appearance of the proposed dwelling would be acceptable, having regard to the range of building styles in the area, this would not overcome the harm arising from the siting and scale of the development.
7. I therefore conclude that the appeal development would have an unacceptable harmful impact on the character and appearance of the area. As such, it would conflict with Policy EQ2 of A Local Plan for Sefton (Local Plan) and Policies ESD2 and H1 of the Formby and Little Altcar Neighbourhood Development Plan 2012 to 2030 (Neighbourhood Plan) insofar as they seek high quality design that responds positively to the character, local distinctiveness, and form of its surroundings. It would also be contrary to the National Planning Policy Framework (Framework) and the New Housing Supplementary Planning Document (SPD) which seek, amongst other matters, development that is sympathetic to local character.

Living conditions

8. I note reference to the Block Plan showing the boundary between the appeal site and the neighbouring property incorrectly, but I was able to see from the other plans and submissions, as well as my site observations, the correct position of this boundary.
9. Although reference is made to the proposal meeting all the required interface distances, the windows and openings on the southern elevation of the proposed dwelling would be sited close to the garden area of No. 2 Sunningdale Gardens and give rise to harmful levels of overlooking, particularly from the openings at roof level.
10. I therefore conclude that the proposed development would have an unacceptable adverse impact on the living conditions of neighbouring occupiers with regard to privacy. As such, it would be contrary to Local Plan Policy EQ2 and Neighbourhood Plan Policy ESD2, which seek, amongst other matters, to protect the amenity of those within and adjacent to the site. It would also be contrary to Paragraph 130 of the Framework and the SPD, which seek a high standard of amenity for existing and future users.

Protected species

11. The appeal site lies in an area that may provide habitat for red squirrel with the Merseyside Environmental Advisory Service stating that the site is within the Sefton Coast Red Squirrel Refuge and Buffer Zone. Although many gardens contain domestic features such as decked areas and outbuildings, Lancashire Wildlife Trust state that their records show the presence of red squirrels in the gardens to properties on Rosemary Lane. No survey information has however been provided by the appellant to demonstrate that the proposal would avoid harm to this protected species. Although no survey information was requested by the Council, given the consultees comments were made during the course of

the planning application that is the subject of this appeal, this information could have been provided.

12. In the absence of this information, I conclude that the proposed development has failed to demonstrate that it would have no harmful impact on a protected species. As such, it would be contrary to Local Plan Policy NH2, which seeks to ensure that there is no significant harm to legally protected species and/or Priority Species.

Other Matters

13. The proposal would provide an additional dwelling that weighs in its favour and in this regard, the development would receive some policy support for making effective use of land. It is however necessary for the development to respond positively to the character and distinctiveness of an area which it would fail to do for the reasons set out.
14. The appellant has made reference to other rear garden developments within the local area, but limited details have been provided. Sunningdale Gardens may have been one such rear garden development, however, it is clear from the size, the number of dwellings and the cul-de-sac layout, that the circumstances of this development differed from the appeal proposal.
15. I note reference to positive pre-application discussions, however this appeal follows the Council's formal decision, and I can confirm that I have assessed the development on both its merits and impacts. Any development proposals on other sites along Rosemary Lane would also be considered accordingly, on their own merits and impacts.
16. The appeal site is not situated within a Conservation Area and nor is the existing building listed. No objections have been raised by a number of consultees, and the proposal would be acceptable in terms of highway safety and would provide sufficient amenity space. The provision of landscaping details is matter which can be controlled by condition. These are all however neutral matters and not ones which weigh in favour of the development.
17. A number of other matters have been raised, including the lack of discussion and not having the opportunity to make amendments during the course of the planning application. These are administrative matters and are outside the scope of this appeal.

Conclusion

18. The proposed development would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR