



Appeal Decision

Site visit made on 28 February 2023

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2023

Appeal Ref: APP/J3015/W/22/3306928

Land between 10-12, Chetwynd Road, Toton NG9 6FT

- 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 Bryan Webster (Thomas Bryan Homes Ltd) against the decision of Broxtowe Borough Council.
 - The application Ref 22/00030/FUL, dated 6 January 2022, was refused by notice dated 4 August 2022.
 - The development proposed is for residential development – erection of 2 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for 'residential development – erection of 2 dwellings' at Land between 10-12, Chetwynd Road, Toton, NG9 6FT in accordance with the terms of the application, Ref 22/00030/FUL, dated 6 January 2022, subject to the conditions shown in the attached schedule.

Preliminary Matters

2. Outline planning permission including access and layout was granted for 2 dormer bungalows on the appeal site in September 2020 (20/00283/OUT). Therefore, the principle of residential development has already been established on the appeal site.

Main Issue

3. The main issue is the effect of the proposal on living conditions of neighbouring occupiers, with respect to the proposal's siting, size and scale.

Reasons

4. The appeal site is a backland site containing several disused garage units and two outbuildings on a parcel of land situated behind existing dwellings. The site is accessed via a private drive off Chetwynd Road. It is enclosed by hedges and fencing.
5. The surrounding area is a mature residential suburb consisting of a mixture of two-storey houses and bungalows that adjoin the site from Chetwynd Road and Rutland Avenue. The existing dwellings have spacious rear gardens that back onto the appeal site.
6. Permission is sought for two dormer bungalows. The siting of the proposed bungalows would be similar to the previously approved outline scheme. Furthermore, the siting of dwellings located behind frontage development is already a feature of the area immediately to the east of the appeal site at

Anfield Close. The location of the proposed dwellings behind existing built form would therefore not be dissimilar to the positioning of the dwellings on Anfield Close. In addition, the proposed plot sizes would be comparable to the plot sizes in the locality.

7. The proposal would, therefore, be sympathetic to local character and the surrounding built environment, whilst optimising the potential of the site to accommodate an appropriate amount of development.
8. The proposed dormer bungalows would be a small-scale development of limited height and bulk and would be encircled by residential rear gardens. The proposal would be partly obscured by existing vegetation and would be seen against the backdrop of the existing residential buildings surrounding the site. It would not, therefore, be overly dominant or prominent in views from neighbouring properties.
9. Plot 1 would be located towards the western portion of the site and would be positioned a sufficient distance away from existing neighbouring properties to its northern and western boundaries. Due to the proposed dwellings orientation, there would be no first-floor windows harmfully overlooking neighbouring properties. Whilst the proposed dwelling would be sited close to the site's southern boundary, it would be around 25 metres distance from the rear elevation of the neighbouring dwelling. Therefore, the proposed dwelling would be far enough away to ensure the outlook and privacy of the neighbouring occupiers would not be harmed. Given the significant length of the neighbouring gardens, there would be no potential for any harmful overshadowing or loss of privacy.
10. Plot 2 would be set an adequate distance away from existing neighbouring properties. Whilst its side elevations would face towards the site's northern and southern boundaries, these side elevations would not contain first-floor windows to habitable rooms, which would safeguard privacy of neighbouring occupiers. In addition, due to the depth of the neighbouring gardens, there would be no potential for any harmful overshadowing or loss of privacy. Consequently, the effect of the proposed dwelling would not be significantly harmful to the neighbouring occupiers.
11. Although the rear of the proposed dwelling on plot 2 would be sited close to the site's eastern boundary, it would be set to the side of 5 Anfield Close. As such, its height and bulk would not harm outlook from this neighbouring property and there would be no potential for any harmful overshadowing or overlooking. In addition, an existing detached garage is sited forward of 5 Anfield Close which would further reduce any impact from the proposed dwelling onto this neighbouring property.
12. Therefore, the siting of the proposed dwellings would be sufficiently distant from the neighbouring dwellings to avoid any significant overbearing, overshadowing, or overlooking impacts.
13. For the reasons given, the proposal would not be unacceptably harmful to the living conditions of neighbouring occupiers with regard to siting, size and scale. As such, the proposal accords with Policy 10 of the Greater Nottingham: Broxtowe Borough Aligned Core Strategy Part 1 Local Plan (2014). Amongst other things, this policy seeks to ensure new development does not adversely impact on the amenity of nearby residents. The proposal would also accord

with Policy 17 of the Broxtowe Borough Council Part 2 Local Plan 2018-2028 (2019). This policy, amongst other things, seeks to ensure new development integrates into its surroundings and provides a satisfactory degree of amenity for occupiers of the new development and neighbouring properties.

Other Matters

14. I acknowledge that there were a number of representations in respect of the proposal, which in addition to the main issue included concerns relating to flood risk, bin storage, parking issues, trees and biodiversity. I have given careful consideration to these matters but based on the information provided they would not constitute reasons to dismiss the appeal.
15. Concerns have been raised with regards to noise resulting from the comings and goings in respect of two dwellings. However, given the number of garage units that currently occupy the site, I conclude that there would not be a significant increase in disturbance for neighbouring occupants from the proposed development.
16. The proposed development would result in a tidying up of the site through the removal of dilapidated buildings and overgrown planting. The proposal would also provide 2 additional dwellings to the local housing supply in a sustainable location. There would also be job creation through the construction phase. This is given significant weight.
17. I note that the appellant has confirmed that the red line plan is accurate and all land within the application site is within the ownership of the applicant.

Conditions

18. The Council has suggested conditions which I have considered, making amendments where necessary in the interests of clarity and consistency, and to ensure compliance with the tests contained in the Planning Practice Guidance and paragraph 56 of the National Planning Policy Framework.
19. In the interests of certainty, I have imposed a condition concerning the timescales for the commencement of development and a condition requiring the development to be carried out in accordance with the approved plans.
20. A materials condition is appropriate to ensure that those used are in keeping with the area. A condition requiring a ground and water contamination survey, potential for gas emissions, and a remediation scheme is necessary to ensure safe development of the site and to protect human health and the environment.
21. A condition relating to the control of noise and dust is required to protect the living conditions of neighbouring occupiers and for the purposes of highway safety throughout the development works. I have also imposed a condition to restrict demolition and construction works during the construction period to protect the living conditions of neighbouring residents.
22. I have imposed a condition to reduce the risk of flooding. A condition relating to soft landscaping has been imposed to ensure the satisfactory appearance of the development. A condition relating to the private driveway and bin storage is also appropriate in the interests of highway safety.

23. In the interests of protecting the living conditions of neighbouring occupiers, I have imposed a condition suggested by the Council which would remove permitted development rights relating to extensions, enlargements or roof alterations.

Conclusion

24. For the reasons given, I conclude that the appeal should be allowed.

Helen Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan
 - Proposed Site Block Plan, Drawing No: JG/BW/2021/058/03/B, dated: Dec 2021
 - Plot 1 - Proposed Floor Layouts and Elevations, Drawing: JG/BW/2021/058/01/A, Dated: Nov 2021
 - Plot 2 – Proposed Floor Layouts and Elevations, Drawing No: JG/BW/2021/058/02/A, Dated: June 2022
 - Topographical Survey, Drawing No: 0001, Dated: 07.12.2021
- 3) No development shall commence until details / samples of the materials to be used in the construction of external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) No part of the development hereby approved shall be commenced until an investigative survey of the site has been carried out and a report submitted to and approved in writing by the local planning authority. The survey must have regard for any potential ground and water contamination, the potential for gas emissions and any associated risk to the public, buildings and/or the environment. The report shall include details of any necessary remedial measures to be taken to address any contamination or other identified problems.
- 5) No building to be erected pursuant to this permission shall be occupied or brought into use until:
 - a. All necessary remedial measures have been completed in accordance with details approved in writing by the local planning authority; and
 - b. It has been certified to the satisfaction of the local planning authority that necessary remedial measures have been implemented in full and that they have rendered the site free from risk to human health from the contaminants identified.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a. The means of access for construction traffic.
 - b. Parking provision for site operatives and visitors.
 - c. The loading and unloading of plant and materials.
 - d. The storage of plant and materials used in construction / demolition works.
 - e. A scheme for the recycling / disposal of waste resulting from construction / demolition works.
 - f. Details of dust and noise suppression to be used during the construction phase.
 - g. A report identifying any asbestos and documenting its safe removal.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) Demolition or construction works shall take place only between 0800-1800 Monday to Friday, 0800-1300 Saturdays, and not at any time on Sundays or on Bank or Public Holidays.
- 8) Prior to the first occupation of the dwellings hereby approved, the development shall be constructed in accordance with the submitted Flood Risk Assessment prepared by Michael Evans & Associates Ltd dated 16 March 2022. The finished floor levels shall be set no lower than 29.63m AOD. This mitigation measure shall be maintained and retained for the lifetime of the development.
- 9) No development above slab level shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The approved landscaping scheme shall include the following details:
 - a. Numbers, types sizes and positions of proposed trees and shrubs.
 - b. Details of boundary treatments (including the bin store).
 - c. Proposed hard surfacing treatment.
 - d. Planting, seeding/turfing of other soft landscape areas.
 - e. A timetable for implementation of the scheme.

The development shall be carried out strictly in accordance with the approved landscaping scheme. Soft landscaping shall be carried out not later than the first planting season following the completion of the development, and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 10) The dwellings hereby approved shall not be first occupied until:
 - a. The private shared driveway is constructed in accordance with the Proposed Site Block Plan JG/BW/2021/058/03/B.
 - b. The dropped vehicular footway crossing on Chetwynd Road has been widened and available for use.
 - c. The access drive is surfaced in a hard, bound material (not loose aggregate) for a minimum of 5.5m behind the highway boundary and designed to prevent the unregulated discharge of surface water onto the public highway.
 - d. The bin store as shown on the Proposed Site Block Plan JG/BW/2021/058/03/B is constructed and made available for use. The dropped vehicular footway crossing and bin store shall then be maintained in such form for the lifetime of the development.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, enlargements, or roof alterations shall be carried out to the dwellings hereby approved which come within Class A, B and C of Schedule 2 Part 1 of the Order without the prior written permission of the local planning authority by way of a formal planning permission.

****End of Conditions****