



Appeal Decision

Site visit made on 6 June 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 July 2023

Appeal Ref: APP/M4510/W/23/3318197

Land at Wallington Drive, South Denton, Newcastle upon Tyne NE15 7RL

- 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 Mrs Jacqueline Spencer (Grey Box Property) against the decision of Newcastle Upon Tyne City Council.
 - The application Ref 2021/2116/01/DET, dated 14 January 2022, was refused by notice dated 27 October 2022.
 - The development proposed is construction of 2no. 3 bedroom, semi-detached houses on vacant land.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The Council's single reason for refusal refers generally to amenity for the future occupants of the dwellings and to the overdevelopment of the site. Having read the Council's officer report and their statement of case, it is clear that they are concerned about the size of the rear gardens of the proposed dwellings and the resultant outlook for the future occupiers of the dwellings, and the effect of the development on the character and appearance of the area.
3. The main issues are therefore:
 - Whether the proposed development would provide appropriate living conditions for future occupiers with regard to outlook and the provision of external amenity space; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site comprises a parcel of vacant land on Wallington Drive. The site lies in an established residential area characterised by modern two storey dwellings set on modest sized plots. The majority of the dwellings in the locality are semi-detached houses or flats. A pair of two storey semi-detached houses is proposed.

Living Conditions

5. The external amenity space provided for the dwellings would be mainly at the rear of the properties in the form of short rear gardens backing directly onto the rear elevations of a block of lock up garages set out in a courtyard beyond.

6. The proposed dwellings would have three bedrooms. It would therefore be reasonably expected that they would be occupied by families. The rear gardens would be a little over 4.5 metres in depth. Almost the entirety of the frontage of the dwellings would be block paved and intended as parking spaces and therefore would not contribute to the provision of amenity space for the occupiers of the properties. Whilst the area to the front would be private in terms of ownership it would offer little in the way of privacy and would be unlikely to be used by future occupants for amenity purposes. Nor would the area to the sides of the dwellings, which provides access to the rear gardens of the properties.
7. Neither party has drawn my attention to any locally set minimum standards for external space provision. However, that is not grounds for adequate external amenity space not to be provided for new dwellings. The plots are neither particularly wide nor deep. It may be possible to sit out in the space provided and it could be used to dry washing or for children to play or for a shed to store a lawnmower, bicycles or other outdoor equipment a family might reasonably be expected to own. However, it is unlikely that future occupiers would be able to use the space with the flexibility expected of, or inherently required of good quality family housing.
8. The size of the external space would therefore represent an inadequate level and quality of amenity which would be expected for the size and type of dwellings proposed. Whilst I recognise that there is green space close by which could be utilised by occupiers of the dwellings for some recreational purposes, that is not a reason not to provide adequate private amenity space as part of the development.
9. The outlook from the rear ground floor of the proposed dwellings would be directly onto the rear of the garages beyond. The appellant states that the windows in the rear elevation would be served with acceptable levels of sunlight and daylight. Although I have not been provided with any substantive evidence to demonstrate this, I have no reason to doubt that this would be the case, given that the garages are set at a lower level than the rear gardens of the proposed dwellings. Nevertheless, the outlook is directly onto the upper portion of their rear elevations and over their flat roofs. The height and proximity of the garages, and the proposed 1.8-metre-high fences on three sides of the boundaries of each plot would result in a sense of enclosure which would be unduly oppressive. The result would therefore be a poor outlook for future occupiers.
10. I therefore conclude that the proposal would fail to provide appropriate living conditions for future occupiers of the proposed dwellings with respect to the provision of external amenity space. Consequently, it conflicts with Policy CS14 (iii) of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 (the Core Strategy) which requires development to prevent negative impacts on residential amenity. It would also fail to comply with Policy DM23 of the Development and Allocations Plan 2020 (the DAP) which seeks to ensure that development provides good standards of amenity for future occupiers of dwellings. DAP Policy DM20 refers to making efficient use of land by promoting higher densities of development, however, as I have found that that there would be conflict with other policies in the plan, it would fail to be appropriate in its location.

Character and Appearance

11. The front elevations of the proposed dwellings would face Wallington Drive would follow the building line along the Drive. However, the houses would be deeper than those either side, as a result they would have very small rear gardens.
12. The houses would be built of similar materials to those around them and would be not dissimilar in appearance to them. From the front they would appear in keeping in both scale and appearance. The space around the fronts and sides of the dwellings would be entirely in keeping with the locality. Although the rear gardens would be small, this would not be readily apparent when passing the appeal site.
13. Some other gardens in the locality are small. I have not been provided with any substantive evidence as to the comparable sizes of gardens in the area, although some of the dwellings in the locality are flats and therefore not comparable to the proposal before me. Nevertheless, from my observations, whilst I have found that the proposal would not provide adequate living conditions for future occupiers of the dwellings the proposed development would not be so out of keeping with its surroundings so as to adversely affect the character and appearance of the area.
14. I therefore conclude that the proposal would not be harmful to the character and appearance of the site and the area. There would be no conflict with to Policy CS15 of the Core Strategy, with regard to its requirement for development to respond positively to local distinctiveness and character.

Other Matters

15. Reference has been made to elements of DAP policies DM20 and DM23 which the proposal would comply with. However, the support for sustainable development in the plan should be at the expense of ensuring all development is appropriate, including integrating the development suitably into its surrounding environment and ensuring adequate living conditions for existing and future occupiers.
16. The proposed dwellings would comply with the Nationally Described Space Standards required by DAP Policy DM7. However, this is not the only policy which the proposal would be required to comply with in order to be acceptable. The proposal's compliance with this policy does not outweigh the harm that I have otherwise found.
17. I have carefully considered the appellant's suggestion that she would be willing to agree to a condition to remove permitted development rights from the dwellings. The National Planning Policy Framework (the Framework) advises that permitted development rights should only be restricted where there is clear justification to do so. Whilst such a condition would prevent further harm it would not avoid the creation of harm that I have identified in the first main issue. It would therefore fail the tests for conditions set out in the Framework.

Conclusion

18. There are no other material considerations, individually or cumulatively, that would warrant taking a decision otherwise than in accordance with the development plan taken as a whole. I therefore conclude that the appeal should be dismissed.

KL Robbie

INSPECTOR