



Appeal Decision

Site visit made on 23 May 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2023

Appeal Ref: APP/T2405/W/22/3313202

23 Bassett Avenue, Countesthorpe LE8 5QG

- 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 Fiona Lyons against the decision of Blaby District Council.
 - The application ref. 22/0593/FUL, dated 16 February 2022, was refused by notice dated 31 August 2022.
 - The development proposed is the erection of new dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the application form. I have however removed reference to the address from the description, as this does not form part of the proposed development.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of future occupiers, with regard to privacy; and,
 - whether there are other material considerations sufficient to outweigh any harm identified in respect of the above issues.

Reasons

Character and appearance

4. 23 Bassett Avenue (No 23) is a spacious, corner plot at the junction with Bassett Avenue and Glebe Drive, located in a predominately residential area. Bassett Avenue comprises largely of two storey, terrace or semi-detached properties, in spacious plots, with modest, largely open front gardens and spacious rear gardens. Deep grassed verges and corner plots with wide side and front gardens further add to the spaciousness of this area. Properties on Glebe Avenue are primarily single storey lodges and static caravans, which are also located within relatively spacious plots. Due to its layout and plot size, No 23 contributes to the character and appearance of the area.
5. The proposed property would be single storey and have a frontage with, and access from, Glebe Avenue, thereby mirroring neighbouring development located on Glebe Avenue. However, due to the limited size and depth of the

appeal site, the proposed property would be sited within very close proximity to two of the site boundaries, with its only garden area located to the side. It would have no rear garden. The limited plot size and proposed layout would therefore be at odds with the prevailing character of the area.

6. Other developments have been drawn to my attention, which I observed during my site visit. Based on the information submitted, the cases are not directly comparable due to their layout, scale, character of immediate area and type of development. In any case, I have had regard to this appeal based on its own merits.
7. For the reasons outlined above, I conclude that the proposed development would result in harm to the character and appearance of the area. As such, it would be contrary to Policy CS2 of the Blaby District Local Plan (Core Strategy) Development Plan Document 2013, Policy DM1 of the Blaby District Local Plan (Delivery) Development Plan Document 2019 (LP) and the National Planning Policy Framework (the Framework). Collectively, these policies and guidance document seek, amongst other matters, to ensure development is in keeping with the character and appearance of the area, respect distinctive local character and are sympathetic to local character.

Living conditions of future occupiers

8. 21 and 23 Bassett Avenue (Nos 21 and 23) are two storey, semi-detached properties, with first floor habitable room windows on their rear facing elevations. Having regards to the orientation and location of the proposed development within the rear garden of No 23, these windows would face directly towards the side elevation of the proposed property and its garden area.
9. As a result of the layout, orientation and proximity of the proposed development with Nos 21 and 23, there would be overlooking of the kitchen, living area and private side garden serving the development from the first floor, rear facing windows at Nos 21 and 23. The suggestion of obscure glazing to both the kitchen and living area window and door would prevent overlooking into these rooms. However, there would still be overlooking of the garden area serving the proposed development from Nos 21 and 23. This would be to the detriment of the living conditions of future occupiers, through lack of privacy.
10. Both the recently approved annex and proposed property have been designed for the specific needs of the appellant's family member, who is the intended future occupier for both schemes. Planning permission runs with the land and the future occupier of the proposed property cannot therefore be controlled. The proposed property would remain long after the personal circumstances of this case have ceased to be material. Therefore, any future occupiers of the proposed property would suffer unreasonably from a lack of privacy.
11. There is a difference in use between an annex and dwelling. An annex would remain as part of the original planning unit, with shared facilities, such as the garden and kitchen, whereas a dwelling would be an entirely independent and separate planning unit. The planning considerations in assessing an annex are different to those relating to a separate, independent dwelling.
12. For the reasons outlined above, I conclude that the proposed development would not provide adequate living conditions for future occupiers, through loss

of privacy. This is contrary to Policy DM1 of the LP and guidance within the Framework, which seek, amongst other matters, to ensure development proposals are not detrimental to the amenities enjoyed by new occupiers through consideration of privacy and provide a high standard of amenity for future occupiers.

Other material considerations

13. A member of the appellants' family lives at No 23 and has neurodiversity. The family member is capable of living semi-autonomously but needs to be close to home in order for family members to check in on them occasionally. I understand that the proposed property has been designed for their specific needs, having been informed by design guideline, PAS 6463:2022 Design for the mind – Neurodiversity and the built environment - Guide. The proposed property would provide a little more space than an annex and would mean the family member is not reliant on the appellant's property to cook and prepare food. The appellant explains that this arrangement would give the family member a true sense of autonomy, which is important for them to lead as normal a life as possible.
14. However, the scheme is for a dwelling that would be unfettered by planning conditions otherwise limiting how it could be occupied. This limits the weight that can be afforded to the circumstances of the proposal. Consequently, although I appreciate that the additional accommodation would provide the family member opportunity to live more independently, what is before me is not ancillary accommodation but a separate dwelling.
15. Furthermore, although recognising that the option of an annex may present some difficulties to the family members independence, I am unconvinced that the proposed property is not the only other option available, within the grounds of No 23, that could fulfil the appellant's family member's needs and provide the additional space they require.
16. The family member has a protected characteristic as set out in Section 149, of the Public Sector Equality Duty (PSED), contained in the Equality Act 2010. The PSED sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. As such, I am obliged to have due regard to this consideration in my assessment of the positive effect of the proposed development on the family member's wellbeing. The proposal would give the family member direct benefits of independent living, with regular support within close proximity. I have therefore afforded greater weight to the benefits of the proximity of family to the individual's wellbeing as required by the PSED.
17. Nonetheless, even with additional weight applied to this effect, there is no overriding reason to allow the erection of a permanent dwelling to address the appellants' family member's personal circumstances. As such, this does not amount to a material consideration of sufficient magnitude to outweigh the primacy of, and conflict found with, the development plan.

Other Matters

18. I understand the proposal has been reduced from two storeys to single storey, to mitigate overbearing and overlooking to Nos 21 and 23 and 14 Glebe Drive.

This amendment is noted but does not change my conclusion that the proposal would be harmful in terms of its effect on the character and appearance of the area and living conditions of future occupiers.

19. I understand that there is sufficient space within the site for parking and ample garden space would be provided for both the occupiers of No 23 and the proposed property. The Council have raised no concerns with regards to these matters and, having regards to the level of parking provision and amount of garden space provided to both properties, I see no reason to disagree. These are however neutral factors.

Conclusion

20. For the above reasons, the proposed development would conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, the appeal is dismissed.

S Pearce

INSPECTOR