



Appeal Decision

Site visit made on 13 June 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/W3005/W/23/3315319

19 Beardall Street, Hucknall NG15 7RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Cash against the decision of Ashfield District Council.
 - The application Ref V/2022/0730, dated 27 September 2022, was refused by notice dated 22 November 2022.
 - The application sought planning permission for: Alterations to existing bungalow and erection of dwelling without complying with a condition attached to planning permission Ref V2020/0241, dated 19 June 2020.
 - The condition in dispute is No.6 which states that: *The dwelling hereby permitted shall not commence until the works to the property at 19 Beardall Street are completed, including the removal of the garage structure and the removal and blocking up of the windows in the north-western elevation of the property.*
 - The reason given for the condition is: *In the interests of residential amenity.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the planning application form refers to condition No.5, the main parties agree that this is in error, and the application was changed to refer to condition No.6. Furthermore, the council acknowledges an error in the decision notice, which refers to policies HG7 (c) and HG7 (f) of the Ashfield Local Plan Review 2002 (LP), instead of HG5 (c) and HG5 (f). The appellant was made aware of the error, and therefore I am satisfied that no party has been prejudiced in this regard.

Background and Main Issues

3. Planning permission was granted for a new two storey dwelling positioned in the side garden of a two bedroomed bungalow at No.19 Beardall Street. The new dwelling is complete and thus the condition is breached. At my visit, only one of the windows in the north-western elevation was blocked up.
4. The appellant seeks a variation to the condition to retain the garage. The main issue is whether the condition (in so far as it relates to the garage) is necessary to protect the living conditions of the occupiers of the bungalow, with particular regard to the provision of private open space and off street car parking; and whether the proposed variation to the condition would result in excessive on-street car parking.

Reasons

5. The council's Residential Design Guide Supplementary Planning Document 2014 (RDG) sets out a minimum private open space requirement of 50sq.m for 1 or 2 bedroom properties in a form that should normally be a single area. If the garage were to be retained, the appellant suggests that the three areas to the front, side and rear of the bungalow would exceed the quantum requirement.
6. The side space is about 16sq.m and due to its shape, it forms a long narrow area and leads to the rear of the bungalow, and thus functions as an access route to the rear of the property rather than private open space. The front area is about 27sq.m. However, this frontage is shallow and includes a pathway from the side of the bungalow along the front building line, and a front border. Thus, the front area does not form a fully useable space for passive outdoor activity, and it would not be private due to the height of the front boundary wall and its proximity to the highway.
7. The remaining rear space is about 30sq.m and thus would be well short of the required standard. Furthermore, the demolition of the garage would enable a larger quantum of private open space in a single form that would support the passive recreational needs of occupiers.
8. The council relies upon Nottinghamshire County Council for standards pertaining to the dimensions of car parking spaces. While some 9.6m of driveway would remain, this would be short of the required 10m length required for two tandem spaces, and a further allowance would be required to account for the opening of the garage door and/or to prevent a vehicle from overhanging the highway. The remaining driveway would not meet the standards for two tandem spaces, and thus there would be a shortfall against the minimum two spaces required by the council's Residential Car Parking Standards Supplementary Planning Document 2014 (RCPS).
9. I note that the RCPS states that garages will not normally be counted as a parking space unless the minimum dimensions for residential garages are provided¹. There is no evidence before me on the nature of the garage in this regard. While the appellant wishes to retain any storage offered by the garage, the needs of existing and future occupiers in terms of private open space must also be taken into account.
10. The appellant suggests there would be little if any benefit to residential amenity from the demolition of the garage. However, there is no compelling evidence to demonstrate that the demolition of the garage would result in little additional afternoon sun, nor that any changes in levels of daylight would be of little benefit or harmful. Consequently, the appellant's position does not represent sufficient justification to set aside the standards pertaining to private open space.
11. Furthermore, I note that the RCPS sets out the exceptional circumstances where a more flexible approach to the application of car parking standards may be required and parking standards may be more negotiable. The RCPS states that *"In particular, developments in areas within close proximity to major transport nodes, such as railway and bus stations, may warrant a more flexible approach where there are no implications for amenity or health and safety."*

¹ Paragraph 4.1

12. However, it is clear that the retention of the garage would lead to unacceptable implications for the residential amenity of the existing occupiers of the bungalow, and thus the exceptional circumstances are not demonstrated to set aside the RCPS standards.
13. Given that the retention of the garage would result in unacceptable implications for residential amenity, it is not necessary for me to consider whether the retention of the garage would lead to an excessive level of parking. Even if it were so, there is little substantive evidence on this matter. In my judgement, the additional demand for on-street parking would not be excessive.
14. The lack of an objection or supporting comment from the local highway authority does not justify allowing the appeal.
15. Consequently, the retention of the garage would result in an unacceptable provision of private open space and insufficient off-street parking, in conflict with criteria c and f of Policy HG5 of the LP, the RDG and RCPS.
16. In accordance with paragraph 129 of the National Planning Policy Framework, I am required to afford weight to design guides where they are in the form of supplementary planning documents (SPD). Paragraph 130 also requires me to ensure that development functions well, and creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
17. While I conclude that the proposed variation to the condition would not result in excessive on-street car parking, I also conclude that the condition is necessary to protect the living conditions of the occupiers of the bungalow, with particular regard to the provision of private open space and off-street car parking.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

J Moore BA (Hons) BPL MRTPI

INSPECTOR