



Appeal Decision

Site visit made on 17 October 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Appeal Ref: APP/N4720/W/23/3327203

18 Church Lane, Tingley, Wakefield, WF3 1BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr P Mellor against the decision of Leeds City Council.
- The application Ref 22/04797/RM, dated 7 July 2022, sought approval of details pursuant to condition No 2 of a planning permission Ref 18/03843/OT, granted on 21 January 2020.
- The application was refused by notice dated 13 February 2023.
- The development proposed is 'Reserved matters application (layout, landscaping, scale and appearance) to outline application 18/03843/OT for one dwelling'.
- The details for which approval is sought are: layout, landscaping, scale and appearance.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's description of the development in the banner heading above, as it more clearly describes the details of the development than that given on the original planning application form. The appellants appeal form also makes reference to the updated description.
3. Permission is sought for reserved matters following the grant of outline planning permission for a new dwelling. This was granted at appeal under the reference APP/N4720/W/19/3237195.
4. The Inspector appointed to determine that appeal had regard to a plan with the proposed development indicated as comprising a '1-½ storey' dwelling, along with off-street parking for two cars with access taken from Church Lane. However, the Inspector noted that matters of design would ultimately be addressed at reserved matters stage. The approved drawing No: *302 Revision B – Site Plan – Proposed* shows the parking, however the footprint of the dwelling is marked as indicative. As such all matters other than access were reserved for future consideration as part of that permission. I have determined this reserved matters appeal accordingly.

Main Issues

5. The main issues are:
 - the effect of the proposed development upon the character and appearance of the area; and

- the effect on the living conditions of the occupiers of neighbouring properties, with particular regard to loss of privacy and outlook.

Reasons

Character and appearance

6. The appeal site is located at the end of a private residential road overlooking fields to the west of the site. It comprises part of the garden area to No 18 Church Lane, which is on the opposite side of that road. Set behind a stone wall on its northern boundary, the appeal site was cleared of vegetation other than lawn, and had a small, paved area. There are garages to the east, and fence panelling and lower stone wall to the south. Behind the fence panels are the residential properties on West Lea Crescent. No one style of dwelling predominates on Church Lane, but there is an underlying consistency in the vernacular design details of the area which appear reflective of the locality's history, materials, and simple design. The overall character of Church Lane has a semi-rural feel within a predominantly urban area which is a positive feature.
7. When approaching the appeal site from its junction with Baghill Road and Syke Road, Church Lane begins to curve round. The dwelling would be positioned centrally within its plot and retain a significant distance to its side boundaries. However, it would appear to project considerably in front of the existing bungalows on the same side of Church Lane. The layout and siting of the development would be consistent with the outline and the footprint would only occupy 26% of the plot. However, by virtue of its two-storey nature being far taller than the bungalows, even accounting for the slightly lower land levels, being positioned almost on the boundary it would appear as a substantial and dominant building protruding further forward and closer to the road than other houses nearby.
8. Due to the curvature of the road, the side elevation would be highly visible. This tall eastern elevation, with a prominent external chimney stack would be visually incongruous against the more traditional dwellings and bungalows close to the site. I acknowledge that the properties in the area are not uniform in character, however, other than the property at No 18, which is also lower, its design and articulation, is not reflected in other nearby properties. The proposal would be of more modern appearance and would significantly reduce the semi-rural character of the area.
9. Although sited at the west end of Church Lane and next to garages, the development would appear incongruous and dominant in views down Church Lane. Whilst in terms of plot coverage the development is comparable to some nearby properties, this does not justify the design and scale of the dwelling itself which, I consider, would not respect its immediate context and position in this location.
10. The proposal would therefore harm the character and appearance of the area. Consequently it would be contrary to Policies GP5 and BD5 of the Leeds Unitary Development Plan (Review 2006) (the UDP) and Policies P10 of the Leeds Core Strategy (as amended by the Core Strategy Review 2019) (the Core Strategy). Together these seek to ensure that development responds to local context in terms of size, scale and design. There would also be conflict with the good design aims of the National Planning Policy Framework (the Framework).

11. As such the proposal would not fulfil the aspirations of the Neighbourhoods for Living - A guide for residential design in Leeds 2003 which is Supplementary Planning Guidance (the SPG). This provides context and design principles to support the aforementioned policies.

Living conditions

12. Of concern to the Council is the relationship between the proposed dwelling and those opposite on Church Lane. The Council puts forward that there should be distances of between 18 to 21 metres between windows. In this case the Council advises the gap between the proposed development and properties opposite is 13m, which is not disputed by the appellant, although I note Nos 22 and 24 Church Lane are sited slightly further away from the proposed development.
13. There are frontage windows and a large ground floor window at No 18 which would be directly opposite a proposed lounge window. Even allowing for the separation of the road and limited vegetation, the distance between the proposed living room window and those on No 18 would be substantially shorter than the above distances and it would be possible to look into the garden and windows from close quarters. Overall given the type and number of proposed windows on the front elevation future occupiers would be likely to spend a significant amount of time in these rooms. The resulting overlooking would be significant and would cause a harmful loss of privacy for the occupier of No 18.
14. The properties shown as Nos 22 and 24 have a high solid front boundary fence obscuring visibility to the windows at ground floor level. The proposed secondary bedroom window would allow views from a close distance into the front garden and upper floor windows of these properties. The appellant indicates that all the first floor windows on the north elevation could be fitted with obscure glazing. This could be secured by a planning condition, given there are alternative windows to the bedroom. This would ensure that there would not be harmful overlooking from the first floor of the dwelling to Nos 22 and 24, although this would be less effective when bedroom windows were open. Thus privacy would on balance be preserved for the occupiers of these properties.
15. The development would be sited in close proximity to the boundary with properties at Nos 28 and 30 West Lea Close. Although there are no habitable room windows on the proposed southern elevation, I could see that there were windows on the rear of the existing properties. The proposed development would extend significantly higher than the site boundaries, which include timber fencing and lower stone boundary walls.
16. The length of the gardens at Nos 28 and 30 are not shallow, and the development would not extend along the entire length of the boundaries. However, the development would be highly visible from within the dwellings and the gardens. The absence of any significant off-set from these rear garden boundaries, combined with the extent of a relatively blank and wide two-storey solid brick wall, would cause a perceived over-dominance. The overall height would feel oppressive, and the width feel enclosing. The development would be of such a scale in terms of overall height, length and shape and in such proximity that it would harm the outlook and therefore living conditions of the occupiers of Nos 28 and 30 West Lea Close.

17. The development would be positioned close to its site boundaries to the north and south. At two-storeys in height and with only a small set back from the Church Lane boundary the physical presence of the development would replace an open area of land. However the presence of the road between the properties, and therefore set back from residential boundaries would be sufficient to mitigate the physical presence of the development from the aforementioned frontage windows at Nos 18, 22 and 24. As such I do not consider that the proposal would result in a significant or harmful loss of outlook for the occupiers of these properties.
18. Although I did not find harm to the living conditions of Nos 22 and 24 in respect of privacy, nor Nos 18, 22 and 24 in respect of outlook this does not outweigh the harm identified. The proposal would harm living conditions of the occupiers of Nos 18 Church Lane in respect of privacy and Nos 28 and 30 West Lea Close in respect of outlook.
19. The development would be contrary to Policies GP5 and BD5 of the UDP and Policy P10 of the Leeds Core Strategy. Combined and insofar as they are relevant to the proposal, and although they do not refer to specific distances, these seek to ensure development considers and has an acceptable effect on the amenity of its surroundings. There would also be conflict with the Framework where it seeks to ensure development provides a high standard of amenity.
20. As such the proposal would not accord with the SPG. This provides advice to preserve privacy and living conditions of neighbouring properties to support the above policies and is therefore a relevant material consideration.

Other Matters

21. I appreciate that the Inspector appointed to determine the previous appeal considered that the scale and design of the proposal would be capable of responding to the constraints of the appeal site, including the effects on living conditions of the occupiers of neighbouring dwellings. However I have no evidence that the scale and design of the development before me was provided to that Inspector.
22. Although the Council has not raised any other concerns, given the conflict and harm identified the proposal would also not comprise sustainable development as asserted.

Conclusion

23. For the reasons set out above, and having had regard to all other matters raised, the proposal conflicts with the development plan taken as a whole. There are no other material considerations which indicate that the decision should be made other than in accordance with the development plan. I conclude that the appeal should be dismissed.

K Williams

INSPECTOR