



Appeal Decision

Site visit made on 31 October 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2023

Appeal Ref: APP/G2435/W/23/3322496

Land at Baron Close, Hugglescote, Coalville, Leicestershire, Easting: 442672, Northing: 313058

- 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. Lansdowne, of S and K Lansdowne, against the decision of North West Leicestershire District Council.
 - The application Ref 22/01059/FUL, dated 28 June 2022, was refused by notice dated 16 February 2023.
 - The development proposed is erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description above is taken from the application form. However, the Council has described it on the decision notice as "Erection of two-storey dwelling with the first floor accommodation located within the roof space." The appellant has also included this description on the appeal form.

Main Issues

3. The main issues are the effect of the proposed development on:
 - i. the character and appearance of the area; and
 - ii. the living conditions of the neighbouring occupiers of 9 Baron Close, with particular regard to privacy, outlook and natural light.

Reasons

Character and appearance

4. The appeal site represents an undeveloped piece of land, occupied by a storage container, at the end of Baron Close and adjacent to Newberry Close, which are both residential cul-de-sacs comprised of new build dwellings. The site is located next to and adjoining 9 Baron Close and 10 Newberry Close and is enclosed by a close boarded timber fence with vehicle access gates onto Baron Close.
5. The proposed development would maximise the size of the site due to its footprint and the irregular shape and limited size of the plot. This would result in the proposed dwelling being built up to the shared boundary with 9 Baron Close and the shared boundary with 10 Newberry Close also.

6. Due to its position and relationship with No 9, views of the proposed dwelling from vantage points on Baron Close would be limited. Nevertheless, it would occupy a prominent position on Newberry Close. In particular, while the existing dwellings on Newberry Close have a staggered front building line, which the proposal seeks to replicate, the projecting front gable feature and side elevation of the proposed dwelling, would extend significantly forward of the front building line of 10 Newberry Close. This amount of forward projection would have a jarring appearance within the street scene and the expanse of solid brick work on the side wall, due to the forward projection and lower ground level of the site, would also result in the proposed development being visually dominant within the street scene, particularly when viewed from the north.
7. Furthermore, the limited plot size and its irregular shape is not comparable to existing plots in the immediate street scene. Therefore, there are limited comparisons between the plot ratios of neighbouring dwellings and the proposed development. Instead, the proposed dwelling would be constrained within the site and would result in the front projecting gable feature being built up close to the existing tall close boarded timber fence, which is proposed to be maintained on the Newberry Close boundary. The relationship of the fence with the proposed dwelling would have an abrupt and cramped appearance. As a result, it would be unusual and incongruous within the street scene, whilst also being out of character with the open front gardens of the majority of existing properties on Newberry Close.
8. Even if a double garage could be constructed on the site, it would be likely to be significantly smaller than the development and have a wholly different appearance. Additionally, landscaping within the site may soften the proposed development over time but this would not sufficiently overcome the harm that I have identified.
9. My attention has been drawn to other examples of development on brownfield 'infill sites'. There is no question that such development could be acceptable in principle in this area. Inevitably, it is the detail and specific context of any development which determines whether it is acceptable in practice. Having considered the design and layout of this proposal, and its effect on the character and appearance of this area, for the reasons given, I consider that there would be unacceptable harm. Given this, these examples do not add weight in favour of the development. Accordingly, as I am required to do, I have determined the case before me on its own merits.
10. For the collective reasons outlined above, the proposed development would be unacceptably harmful to the character and appearance of the area, which would not accord with the identified design aims of Policy D1 of the North West Leicestershire Local Plan (2021) (LP) and Policy G3 of the Hugglescote and Donington le Heath Neighbourhood Plan (2021) and the principles set out in the Good Design for North West Leicestershire Supplementary Planning Document for new developments 2017 (SPD). These, together and amongst other things, require developments to be well designed, which offer a good standard of design to reflect the character and context of existing developments.
11. In addition, the proposal would fail to accord with the design objectives of the National Planning Policy Framework (Framework).

Living conditions

12. The proposed development would be built up to the shared side boundary of the rear garden of 9 Baron Close. No 9 has windows on its rear elevation at ground floor and first floor. The rear of the proposed dwelling would have two windows at ground floor, which would internally serve a w/c and utility room, and two rooflights in the rear roof slope which would serve a landing and bathroom. The difference in ground levels and the height and location of the existing retaining wall, with fence above, would ensure that the ground floor windows do not directly overlook the neighbouring rear garden. Additionally, the two proposed roof lights would be obscured glazed and non-opening, and this can be secured by a suitably worded planning condition to prevent overlooking of the rear garden area of No 9.
13. Policy D2 of the LP seeks development that, amongst other things, does not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, excessive overshadowing and overbearing impact. In order to achieve this, paragraph 13.7 of the SPD, sets out that new development next to an existing residential property should not normally project beyond a 45-degree line taken from the centre line of the nearest habitable window of any adjacent house.
14. I acknowledge that the rear wall of the proposal would extend the length of the shared side boundary of the rear garden of No 9 and the juxtaposition between the two properties would result in the rear elevation of the proposal being close to the nearest ground floor window of No. 9. This would result in the 45-degree line being technically breached. However, the height of the proposed dwelling would not be significantly taller than the existing fence on the shared boundary due to the difference in ground levels. Additionally, the roof pitch of the proposed dwelling would slope away from the shared boundary and neighbouring windows. As such, the proposed development would not cause a significant reduction in daylight to habitable rooms or have a significantly increased enclosing or overbearing effect on the occupiers of No 9.
15. For the above reasons, the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 9 Baron Close, in respect of privacy, outlook and natural light. As such, the proposed development would accord with policy D2 of the LP and the principles set out in the SPD and the Framework.

Other Matters

16. The appellant has also identified that the Council has raised no concerns with regard to the effect of the proposed development on the living conditions of future occupiers, highways and parking, noise, light, odour or other disturbance, bin collection arrangements, and other matters. I see no reason to disagree with the parties on these matters.
17. I acknowledge that the construction of an additional dwelling in a sustainable urban area would add to the mix of dwelling types in the area, particularly a smaller 2 bedroom property. The proposal would also contribute to boosting the supply of new housing, particularly on brownfield land, as referenced in the Framework, and would provide social and economic benefits to local services during the construction and occupancy phases without conflict with neighbouring land uses. Reference is also made to the proposed dwelling being

energy efficient. However, these benefits would be limited by virtue of the proposal only adding one additional dwelling to the housing supply in the area. Therefore, taking the above matters into consideration, the benefits would not outweigh the identified harm that would be caused to the character and appearance of the area.

Conclusion

18. Notwithstanding my conclusions on living conditions, the proposal would still conflict with the development plan as a whole. No other material considerations, including the provision of a dwelling towards the supply of housing, would outweigh this conflict.

19. For the reasons given above, I conclude that the appeal is dismissed.

N Bromley

INSPECTOR