



Appeal Decision

Site visit made on 8 November 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/X3025/W/23/3322322

Beaumont, Leeming Lane North, Mansfield Woodhouse, Nottinghamshire NG19 9DU

- 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 Josh Anderton against the decision of Mansfield District Council.
 - The application Ref 2022/0456/FUL, dated 08 July 2022, was refused by notice dated 6 December 2022.
 - The development proposed is New detached bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i. whether or not adequate living conditions would be created for future occupants of the proposal, with reference to noise; and
 - ii. the effect of the proposed development on the living conditions of the occupants of the neighbouring first floor living accommodation of the PH, with regard to outlook and daylight.

Reasons

Living conditions of future occupiers

3. The appeal site occupies an elevated backland location, within the existing garden area of the host dwelling, Beaumont. The site is immediately adjacent to the Jug and Glass Public House (PH), which fronts Leeming Lane North. The PH has a contained beer garden to the side, which can be accessed from the street and also directly from the PH. The beer garden is of a reasonable size and includes a number of tables that allows patrons to sit and congregate.
4. The proposed dwelling would be located on land that is elevated above the beer garden but in close proximity to the shared boundary with it. The proposed floor plans show that a lounge, leading to a turfed front lawn area, would be directly adjacent to the beer garden, as would a window opening to the kitchen / diner. The lounge would have a set of bi-fold doors which would provide the only opening to this main living area.
5. During summer months and in the evenings, when the weather is warmer and at a time when future occupants may also wish to have their windows open, the use of the beer garden is likely to cause noise and disturbance. This is

likely to lead to conflict between future occupants and the existing business through loud activities one would typically expect from a vibrant public house environment. Moreover, whilst the venue does not play outdoor music at present, it is permitted to do so until 23:00 under the terms of its licence. This compounds my concern that noise disturbance would arise for future residents.

6. Furthermore, there also appeared to be areas of outdoor storage associated with the PH in close proximity to the shared boundary. In particular, beer barrels were stored in this location, which had either been delivered or were awaiting collection. Therefore, the associated comings and goings in close proximity to the proposed development is likely to result in additional noise and disturbance to future occupants, in particular the lounge and front garden.
7. The appellant has suggested that any conflict could be resolved with attenuation fencing or landscaping, but without any quantitative noise assessment before me to substantiate that, I am not persuaded it would be the case. As for enhanced glazing, this would not resolve issues arising on the likely occasions that windows and the bi-fold doors of the dwelling would be open.
8. There is a row of terrace properties in closer proximity to the beer garden, on the other side of an unmade access track. However, unlike the relationship of the proposed dwelling to the PH, the terrace has its robust gable end facing the beer garden, which logically offers an attenuating effect. Beaumont is much further from the beer garden, and so has had little influence on my assessment.
9. There is also a suggestion that the footprint of the building could be moved 2 metres in either direction to address concerns. Nevertheless, as I am required to do, I have determined the appeal on the plans before me. Whilst I am also aware that future residents would have potential redress to the statutory nuisance provisions, I must assess the scheme on its own merits in the here and now.
10. The appellant has identified a number of examples that they consider to be comparable in terms of new dwellings being located next to public houses. The full details of these cases have not been provided, in particular it is not known whether any restrictions are in place to mitigate the impact of those developments on the living conditions of neighbouring occupants. In any event, the issue of noise is highly fact sensitive and site specific, turning on the individual circumstances of each case. Therefore, whilst there may appear to be some similarities, these other schemes have not eased my concern that harm would arise in this case.
11. For the above reasons and on the evidence before me, adequate living conditions would not be created for future occupants of the proposal, with reference to noise. It would thereby conflict with Policies P7 and NE3 of the Mansfield District Local Plan 2013-2033 (LP), which together and amongst other things, seek to ensure development does not have a significant adverse effect on the living conditions of future occupiers from noise, which cannot be mitigated to an appropriate standard.
12. In addition, the proposal would fail to accord with the National Planning Policy Framework (Framework), which seeks to ensure that new development can be integrated effectively with existing businesses and community facilities.

Living conditions of the occupiers of the PH

13. The elevated position of the appeal site results in the first floor residential accommodation of the PH being at a similar level to the proposed dwelling. The residential accommodation has windows and a single entrance door that leads to a flat roof which appears to be used as a private outdoor amenity area for the occupiers. It has not been established by the parties what internal rooms the windows serve, but the location and the size, would suggest that they do not serve habitable rooms, or they are secondary windows to habitable rooms.
14. The proposed dwelling would be located close to the shared boundary but there would be a reasonable amount of separation between the first floor side wall of the PH and the rear elevation of the proposed dwelling by virtue of the private outdoor space, an alleyway and a path at the rear of the proposal.
15. The proposal would have a limited height and a hipped roof which slopes away from the boundary. It would also be positioned so that the rear wall does not directly face the windows and door of the first floor of the PH. Therefore, there is unlikely to be a significant loss of daylight to neighbouring windows and the proposed development would not cause a significantly increased enclosing effect on the occupiers of the first floor accommodation.
16. For the above reasons, the proposed development would have an acceptable effect on the living conditions of the occupiers of the first floor residential accommodation of the PH, with regard to outlook and daylight. As such, the proposed development would accord with Policy P7 of the LP, insofar as it seeks to ensure development does not have a significant adverse effect on the living conditions of existing residents.

Planning Balance and Conclusion

17. The failure of the scheme to create adequate living conditions for future occupants draws the proposed development into conflict with the development plan when read as a whole.
18. The creation of an additional dwelling in a sustainable urban area, would contribute to boosting the supply of new housing, as referenced in the Framework. There would also be social and economic benefits to local services during the construction and occupancy phases. However, these benefits would be limited by virtue of the proposal only adding an additional dwelling to the housing supply in the area. The resurfacing of the unmade access track would provide a limited benefit. Furthermore, whilst neighbouring residents have not objected, this does not weigh in favour of the proposed development.
19. Taking all of the above matters into account, no other material considerations, would outweigh the conflict with the development plan.
20. For the reasons given above, I conclude that the appeal is dismissed.

N Bromley

INSPECTOR