



Appeal Decision

Site visit made on 16 January 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2024

Appeal Ref: APP/W3005/W/23/3328464

2 Main Road, Kirkby-In-Ashfield, Nottinghamshire NG17 9EZ

- 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 David Snell against the decision of Ashfield District Council.
 - The application Ref V/2023/0262, dated 10 May 2023, was refused by notice dated 29 June 2023.
 - The development proposed is the conversion and extension of detached garage to form 1 no dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I will refer to the updated paragraph numbers where necessary.
3. The 2022 Housing Delivery Test results¹ ('the HDT') were published on 19 December 2023 which indicated that the Council has been significantly underperforming over the previous three years. However, this position has not changed since the publication of the 2021 results and therefore, it does not raise any new matters for which I need to seek the views of the main parties.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the surrounding area;
 - b) the living conditions of future occupiers of the proposed dwelling, with particular reference to private outdoor garden space;
 - c) highway safety; and
 - d) the living conditions of the occupiers of neighbouring properties, with particular reference to privacy and outlook.

¹ Housing Delivery Test: 2022 Measurement

Reasons

Character and Appearance

5. The appeal site comprises a single storey detached garage sited to the south of the two-storey detached dwelling at 2 Main Road. The garage is set back from the front elevations of both No 2 and 198 Skegby Road and, due to its siting and scale, it appears subservient to the existing dwelling and is relatively inconspicuous when viewed from the road. The dwellings surrounding the appeal site are predominantly 1 or 2 storeys with rectangular footprints set within rectangular plots with small front gardens and private rear gardens.
6. The garage would be extended to the front, to be in line with the front elevation of No 2, increasing the building's prominence when viewed from the road. The plot would be narrow, and the building would be sited in proximity to the boundaries to either side with an extremely shallow and small rear garden. Consequently, the proposal would result in a cramped form of development and represent an overdevelopment of the plot. It would not adhere to the established pattern of development surrounding the appeal site and therefore, the proposal would detract from its character and appearance.
7. In reference to the first main issue, the proposal would have an adverse effect on the character and appearance of the surrounding area. It would conflict with Policy HG5(g) of the Ashfield Local Plan Review, adopted 2002 ('the LP') which, amongst other things, requires the design of residential development to be acceptable in terms of its appearance, scale and siting. It would also conflict with Chapter 12 of the Framework that seeks to achieve well-designed and beautiful places, and the Council's Residential Design Guide Supplementary Planning Document, adopted 2014 ('the RDG').

Living Conditions – Future Occupiers

8. The RDG requires a 1 or 2 bedroom dwelling to have a minimum single area of private open space, excluding parking areas, of 50sqm. This is to ensure that private outdoor space can adequately provide for the requirements of all occupants. Garden areas are proposed to the front and rear of the proposed dwelling. While a hedgerow is proposed between the parking area and the front garden, the front garden area would not be "private" as it would include the access to the front door. The rear garden would fall significantly below the minimum size specified by the RDG. The appellant asserts that the size of the two garden areas when combined would exceed the minimum size required for private open space. However, the RDG is clear that the figure should represent a single area. Consequently, the limited size of the private garden would result in a low standard of living conditions for future occupiers.
9. I acknowledge that the appeal site is within walking distance of Public Rights of Ways and a local recreational park. While these spaces could provide opportunities for public recreational activities, this would not overcome the limited size of the private garden space for future occupiers.
10. In reference to the second main issue, the proposal would adversely affect the living conditions of future occupiers of the proposed dwelling, with particular reference to private outdoor garden space. The proposal would conflict with Policy HG5 of the LP which, amongst other things, seeks to ensure that residential development is permitted where adequate private garden space is

provided. It would also conflict with Chapter 12 of the Framework that seeks to ensure that developments have a high standard of amenity for future users. It would also conflict with the RDG and the Council's Residential Extensions Design Guide Supplementary Planning Document, adopted 2014 ('the REDG').

Highway Safety

11. There is an existing dropped kerb along part of the frontage of the appeal site that provides access to a large, gravelled driveway on which vehicles were parked at the time of my site visit. Main Road curves to the south of the appeal site where it changes into Skegby Road. The curve restricts visibility from the access in this direction, while a mobile home is stationed within part of No 2's front garden that impedes visibility to the north.
12. The access onto Main Road is existing. However, I cannot confirm from the information before me whether it is lawful. The submitted drawing does not include visibility splays and therefore it is unclear whether they could be achieved. The appellant asserts that the proposal would result in a decrease in vehicular movements as vehicle sales from the appeal site would cease. However, the sale of vehicles from the appeal site is unlawful.
13. On this basis, and in reference to the third main issue, the proposal would conflict with Policies HG5(e) and ST1(a), (b) and (c) of the LP which, amongst other things, seek to ensure that developments do not adversely affect highway safety, and that access for vehicles, pedestrians, cyclists and public transport is safe and convenient. It would also conflict with paragraph 114 of the Framework that seeks to ensure that a safe and suitable access to the site can be achieved for all users, and it would adhere to paragraph 115 of the Framework that requires development to be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. It would also conflict with the Nottinghamshire County Council Highway Design Guide.
14. The Council's third reason for refusal also references Policy HG5(f) of the LP. However, this criterion is in respect of parking facilities, which is not a matter in dispute between the main parties.

Living Conditions – Neighbouring Properties

15. The garage significantly extends beyond the rear elevations of the properties to either side. However, this part of the building is existing and, other than the demolition of a single storey projection closest to No 2, the proposal would not involve any increase in the size or scale of the rearmost section. Consequently, the outlook from the rear windows of the dwellings to either side of the existing building would be no worse than the existing circumstances. There is a ground floor and a first-floor window within the side elevation of No 2. However, both appear to serve rooms that would not be frequently used. Consequently, the proposal would not have a harmful effect on the living conditions of the occupiers of these rooms.
16. The boundary treatment to the rear of the garage comprises fencing that is of a height that would prevent overlooking of neighbouring properties. The submitted drawing does not indicate whether the existing fencing to these boundaries would be retained. However, if I was minded to allow the appeal, the existing boundary treatment could be conditioned to be retained. It is proposed to erect a 1.8m high timber fence along the boundary between the

appeal site and No 2. There is a difference in ground levels that would mean the proposed fence would be higher when viewed from within No 2's rear garden. However, its overall height would not be so significant that it would be overbearing or oppressive on the living conditions of the occupiers of the neighbouring property.

17. In reference to the fourth main issue, the proposal would not unduly harm the living conditions of the occupiers of neighbouring properties, with particular reference to privacy and outlook. It would therefore comply with Policy HG5 of the LP which, amongst other things, seeks to ensure that the amenity of neighbouring properties is protected. It would also comply with Chapter 12 of the Framework that seeks to achieve a high standard of amenity for existing users, and with the RDG and the REDG.

Other Matter

18. I have been directed to a planning application² to demonstrate that the Council has approved other developments with front elevations that lack architectural interest. However, the Council has not raised an issue with the appearance of the proposed dwelling.

Planning Balance

19. The Council has stated that it is unable to demonstrate a five-year housing land supply of deliverable housing sites and has a significant undersupply of 2.93 years. Furthermore, the HDT indicates that the Council has been underperforming in its delivery of housing for a considerable time. The appeal site does not affect a protected area. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
20. The provision of one additional dwelling weighs in favour of the proposal and would make a contribution, albeit modest, to the Government's objective of significantly boosting the supply of new homes. The proposal would also provide some short-term employment through the construction and conversion of the existing garage into a dwelling. The proposed dwelling would be within proximity to shops, services and public transport nodes, and future occupiers would likely utilise them, providing economic benefits. I therefore afford these benefits moderate weight.
21. The proposed dwelling would comply with the minimum space standards detailed within the RDG. However, this is a neutral matter. The appellant asserts that the proposed dwelling would comply with Category 2 of Part M of Building Regulations regarding accessible and adaptable dwellings. However, this is an optional requirement, and its provisions only apply where a planning condition requires compliance. I have not been directed to any development plan policies that would allow me to attach this condition should I allow the appeal, and the Council has not included a condition to this effect within their suggested list of conditions. Consequently, I do not have a mechanism before me to ensure the dwelling would comply with this optional requirement and therefore, I afford it limited weight.

² Planning Ref V/2018/0764

22. Against the benefits is the development's adverse effect on the character and appearance of the surrounding area, the living conditions of future residents, and highway safety. These matters would be contrary to the Framework's objectives of achieving well-designed and beautiful places, high standards of amenity and promoting safe and suitable accesses, matters which I give substantial weight. Consequently, I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole. The proposal would not therefore represent a sustainable form of development.

Conclusion

23. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR