



Appeal Decision

Site visit made on 15 February 2024

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2024

Appeal Ref: APP/P2365/W/23/3329901

Land adjacent to 11 Heathland, Upholland, Lancashire, WN8 0BP

- 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 Colin Harrison against the decision of West Lancashire Borough Council.
 - The application Ref 2022/1289/FUL, dated 2 December 2022, was refused by notice dated 20 June 2023.
 - The development proposed is the erection of a two-storey, detached 4-bedroomed dwelling and a single-storey garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The block and site plans submitted with the application show the property to the rear as being No 15 Heathland. This is repeated in reference to that property in the Council's decision notice. In fact, it would appear that the property is No 17 Heathfield, as pointed out in the appellant's statement, and I have used reference to No 17 in my considerations.

Main Issues

3. The main issues in this case are the effects of the proposed dwelling on:
 - The character and appearance of the area around Heathland,
 - The living conditions of the occupiers of No 17 Heathland by way of privacy and,
 - The provision of open space in the area around Heathland/Highmeadow.

Reasons

4. The appeal site is a small area of public open space, situated between No 9 and No 11 Heathland. It is effectively located at the end of a short cul-de-sac and is currently laid to grass with mature shrubs around. There is a turning circle at the end of the cul-de-sac which also provides access to drives serving houses at the western end of Heathland. A footpath leads off the turning circle which links to a similar turning circle at the eastern end of Meadowfield. The proposed dwelling would be a 4-bedroomed, detached house, with an attached garage to its western side.

5. Policy GN3 of the Council's Local Plan (LP) indicates that new development should have regard to visual amenity and complement or enhance any local distinctiveness within its surroundings through sensitive design, including appropriate siting, orientation, scale, and materials. Policy EN3 indicates that development on open space and recreation facilities will not be permitted where development would restrict access to publicly accessible Green Space, and that development that results in the loss of existing open space or recreation facilities will only be permitted if one of three conditions is met: namely that the open space has been agreed by the Council as being unsuitable for retention because it is under-used, poor quality or poorly located; or the proposed development would be ancillary to the use of the site as open space and the benefits to recreation would outweigh any loss of the open area; or successful mitigation takes place and alternative, improved provision is provided in the same locality.
6. The Council's Design Guide (DG) indicates that new development should always add to the local distinctiveness of an area and proposals should show clearly how the general character, scale, mass, and layout of the site and/or buildings fits in with the 'grain' of the surrounding area. Moreover, new properties which are sited in front of those adjacent, and which would protrude into the streetscene would not normally be permitted. In addition, and in order to prevent loss of privacy, the minimum rear garden depth of a property will generally be 10 metres unless the particular merits of the case, in terms of the character of the setting, might warrant a reduction in the requirement.
7. The Council's Supplementary Planning Document on Provision of Public Open Space in New Residential Developments (SPD) indicates that open space could include equipped play areas and informal and amenity green space. Informal amenity green space is defined as undeveloped, publicly accessible areas, providing an informal recreational function, which may include grassed areas. Guidance on protection of open space follows the thrust of Policy EN3 of the LP.
8. The Council contends that the proposed development conflicts with Policy EN3 of the LP in that insufficient evidence has been provided within the submission to demonstrate the proposal satisfies conditions relating to loss of open space. Moreover, it would conflict with policy GN3 of the LP with regard to issues of overlooking the property to the rear of the site at No 17 Heathland, and that it would be an unduly prominent dwelling which would disrupt the visual amenity of the immediate street scene and be contrary to the prevailing pattern of development.
9. The appellants contend that the proposed dwelling would be in keeping with the rest of the estate in terms of its siting, design, external appearance and visual relationship with adjacent properties; that the proposed separation distance between the appeal property and No 17 to the rear would be such that it would not result in a significant detrimental loss of privacy to the occupants of No 17; and that the open space is poorly located and not well used.

Character and appearance

10. The northern side of this part of Heathfield contains three houses. Nos 11 and 15 lie to the east of the appeal site and share a common building line, whilst No 9 lies to the west and is set a little behind that building line. The two houses to the west of No 9 on Meadowfield continue the building line of No 9 Heathfield, such that the streetscene as viewed from the eastern end of

Heathland is one of relative consistency along the frontage, with properties set well back from the road. The proposed dwelling would be set well forward of the building lines along the northern side of the road. The appellant contends that the proposed dwelling would have a front canopy and that the main two-storey element would only be 1 metre in front of the house at No 11. However, No 11 also has a front canopy and, in terms of the main two-storey part of the houses, the proposed dwelling would still protrude 3 metres forward of No 11, and more than 3 metres forward of No 9.

11. The appellant has provided details of other locations within the area where there are property alignments that result in a less than consistent building line. However, in this case, the proposed dwelling would, as an isolated example, project well forward from the building lines on either side, and would be a prominent, discordant and uncharacteristic feature in the street-scene.
12. The appeal site is wider than the plots to either side but it is much shallower, particularly on the western side, where the turning circle eats into the front corner of the site. The restricted depth and the awkward shape of the plot means that the proposed dwelling would be cramped on the site, and this would add to the harm to the appearance of the area caused by the uncharacteristic forward projection of the house within the street scene.
13. On this issue, therefore, I find that the proposed dwelling would be harmful to the character and appearance of the area around Heathland, and it would conflict with Policy GN3 of the LP and with guidance in the DG.

Living conditions at No 17

14. From the plans submitted by the appellant, it would appear that there would be one large first-floor window in the rear elevation serving the master bedroom, and that the other three bedrooms would have an aspect to the front. The rear of the proposed house would overlook the rear elevation of No 17, albeit at an acute angle, along with its conservatory and rear garden. Similarly, by virtue of the proximity of the house at No 17 to the rear boundary of the appeal site, there would be views over part of the rear garden of the proposed house from the property behind.
15. Some measurements have been provided to show that the window would be around 10 metres from the rear boundary with No 17. However, at the nearest point it would appear to be a little under 10 metres. These figures would be at, or very little below, the required minimum amount as set out in the DG. Since the deficit would be small, this would not, in itself, be reason to dismiss this appeal. However, the issue of intervisibility between the appeal site and No 17, with the potential for loss of privacy, is further indication that the proposed house would not relate well to its surroundings, and would result in a somewhat cramped character to the setting of the group of houses on this part of Heathland.
16. In the light of the above, I find that the proposal would conflict with guidance on issues of privacy as set out in the DG, albeit to a limited degree.

Effect of loss of public open space

17. The appeal site was, apparently, in the past, an equipped play area, but the equipment has since been removed. It is now effectively an informal and amenity green space. From the information before me the proposed

development would not be ancillary to the use of the site as open space and there would be no benefits to recreation that would outweigh any loss of the open area. Similarly. There would be no alternative, improved provision established in the same locality. On these grounds, therefore, the proposal would conflict with policy EN3 of the LP.

18. The appellant has supplied the results of a survey into the usage of the open space, and contends that this indicates that it is under-used by local residents. Furthermore, he contends that it is poorly located and poor in quality. I note the content of the survey, although the data would appear somewhat random and based upon spot checks rather than sampling over representative periods. I also note the comments of local residents who indicate that the open space is used by the community, but there is no hard evidence on this matter. There is insufficient hard evidence either way to determine the actual usage of the area.
19. There are two small equipped play areas nearby, but the appeal site is the only informal and amenity space in the vicinity. It would appear that it is well maintained, in accordance with a planning condition, and could have both biodiversity and recreational use. The grassed area could be extended if deemed desirable by reducing the scale of the surrounding shrubs, or the shrubs could be retained if there is proven biodiversity value. In either event, I do not consider that the space is of poor quality or location.
20. The appellant has provided photographs to show that the land is sometimes parked upon. This may well be the case, but this would easily be prevented with simple and unobtrusive management and maintenance measures.
21. In conclusion on this issue, therefore, I find that the proposal would not meet any of the conditions set out in Policy EN3 of the LP necessary for permission to develop on open space. The site retains value as the only informal and amenity space in the area; the development would not be ancillary to the use of the site as open space; and there would not be any alternative, improved provision established in the same locality. On this basis, it would be harmful to the provision of open space in the area and would conflict with policy EN3 of the LP.

Conclusion

22. In conclusion, I find that the proposal would be harmful to the character and appearance of the area around Heathland; it would be harmful to the living conditions of the occupiers of No 17, albeit to a limited degree; and it would have a harmful effect on the provision of open space in the area. On this basis it would conflict with Policies GN3 and EN3 of the LP, and with guidance in the DG and SPD. Accordingly, I dismiss the appeal

J D Westbrook

INSPECTOR