



Appeal Decision

Site visit made on 21 February 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2024

Appeal Ref: APP/M2372/W/23/3328719

27 Skye Crescent, Blackburn BB1 2JN

- 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 Owl Estates Ltd against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/23/0169, dated 26 February 2023, was refused by notice dated 20 April 2023.
 - The development proposed is erection of a detached 2 storey, 3 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the refusal of the planning application, the Council adopted the Blackburn with Darwen Local Plan 2021-2037 (Local Plan) on 25 January 2024. Policies 8 and 11 of the Blackburn with Darwen Local Plan Part 2: Site Allocations and Development Management Policies 2015 and Policy CS16 of the Blackburn with Darwen Core Strategy 2011 are no longer part of the development plan. Accordingly, I have determined the appeal against the relevant policies of the new Local Plan. The Council refer to the Local Plan and relevant policies in their statement, which the appellant has had an opportunity to comment on.
3. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the living conditions of the neighbouring occupiers of 34 and 36 Dunoon Drive and 27 Skye Crescent (the host property), with particular regard to privacy; and
 - the character and appearance of the area.

Reasons

5. The appeal site forms the side garden of the host property, a two storey end of terrace dwelling, located in a residential area. The side garden of the appeal property occupies a prominent position adjacent to the road, which has an open and spacious appearance. The topography of the area slopes upwards from the east, primarily in a westerly direction. Therefore, the appeal site is elevated above properties that front Dunoon Drive beyond the rear boundary.

Living conditions

6. The rear elevation of the proposed dwelling would contain habitable room windows at ground floor, first floor and within the roofspace. The windows would face the rear elevations and windows of properties that front Dunoon Drive, albeit they would be on an angle. Nonetheless, the properties on Dunoon Drive occupy a markedly lower ground level.
7. Policy DM02 of the Local Plan states that development will be permitted where it can be demonstrated that it would secure a satisfactory level of amenity for existing and future occupants, with reference to privacy/ overlooking and the relationship between buildings. In order to achieve this, the Residential Design Guide Supplementary Planning Document 2012 (SPD) advises a separation of no less than 21 metres, which shall be maintained between facing windows of habitable rooms. It further advises that, for each additional storey above 2 storeys, or where land levels create an equivalent difference in the heights of the buildings, an additional set back of 3 metres shall be required.
8. The appellant has submitted plans which demonstrate that separation distances between the proposed dwelling and 34 (No 34) and 36 (No 36) Dunoon Drive would exceed 21 metres. The plans also show the angled relationship between the windows. However, the proposed dwelling occupies a noticeably higher ground level than No 34 and No 36. Therefore, the proposed upper floor windows in the rear elevation would be considerably elevated above the two neighbouring properties.
9. Even when taking into account that the proposed rear habitable windows would not directly face the rear habitable windows of No 34 and No 36, the separation distances and the difference in ground level, would result in an unacceptable level of overlooking and loss of privacy to the neighbouring occupiers.
10. While it is the case that the rear elevations of other properties, within the adjacent row of properties on Skye Crescent, also face rear walls of properties on Dunoon Drive, those properties appear to have a greater separation distance, and it does not ease my concern that harm would arise in this case.
11. I acknowledge that the proposed rear dormer window would allow an outlook towards the rear garden of the host property. However, the proposed position and distance away from the shared boundary, as well as the oblique angle of views, would ensure that there would be no significant loss of privacy to the occupiers of the host property.
12. For the reasons set out above, I conclude on this main issue that the proposed development would cause unacceptable harm to the living conditions of the occupiers of 34 and 36 Dunoon Drive, but not to the occupiers of 27 Skye Crescent, with particular regard to privacy. Overall, it would conflict with Policies CP8 and DM02 of the Local Plan, and the principles set out in the SPD.

Character and appearance

13. The surrounding area is primarily characterised by a mix of two storey semi-detached dwellings and blocks of terrace dwellings of a largely consistent appearance with rendered walls and tiled roofs. However, the host property and the other properties in the block have facing brick at ground floor and render at first floor.
14. The proposed development is for the construction of a two storey detached dwelling that would front Skye Crescent. It would be located immediately to the side of the host property and follow the front building line and linear built form of the block of terrace dwellings. It would have a small front garden, larger rear garden, and a parking area for two vehicles at the side.
15. A detached building, in this location, would be a noticeable contrast to the existing buildings in the street scene, particularly due to its juxtaposition immediately adjacent to the block of terrace dwellings. Even though the proposed dwelling would be tightly spaced next to the end gable of the host property, it would still appear as a detached building. In addition, the arrangement of windows and the form of the roof would further exacerbate its contrasting appearance within the street scene. Therefore, the proposal would sit uncomfortably in the surroundings and interrupt the established pattern of development in the locality. Accordingly, it would appear incongruous.
16. Furthermore, the proposed detached dwelling would be built on the visually prominent side garden and would introduce a new building onto an otherwise undeveloped side garden. This would result in the loss of the open appearance of the site, which is highly prominent from various vantage points along Skye Crescent. The prominent appearance would be emphasised by its elevated position, and proximity to the road, particularly when viewed on the approach from Dunoon Drive.
17. The proposed materials would be a subtle difference to the existing dwellings within the adjacent block of terrace properties, including the host property. There is a prominence of fully rendered properties in the locality and the use of slightly different facing materials would not be visually harmful. However, this has had little influence on my overall findings on this main issue.
18. For the collective reasons outlined above, I conclude that the proposed development would be unacceptably harmful to the character and appearance of the area. Therefore, the proposal would conflict with Policies CP8 and DM27 of the Local Plan, and the design principles of the SPD, which together and amongst other things, require all new development to be of a high standard of design which enhances its surroundings.

Planning Balance and Conclusion

19. The construction of an additional dwelling in a sustainable urban area by virtue of its proximity and accessibility to local services on foot, along with access to public transport opportunities, would contribute to boosting the supply of new housing, as referenced in the Framework. I also acknowledge that the proposal would redevelop the land which the appellant suggests is vacant and underutilised. There would also be social and economic benefits to local services during the construction and occupancy phases without conflict with neighbouring land uses. However, these benefits would be limited by virtue of

the proposal only adding one additional dwelling to the housing supply in the area.

20. Taking the above matters into consideration, the benefits would not outweigh the identified harm that I have found would be caused in relation to the living conditions of neighbouring occupiers and the character and appearance of the area.
21. Consequently, I conclude that the proposed development would conflict with policies contained within the development plan as a whole. I have found no other material circumstances that would outweigh that conflict. As such, the appeal is dismissed.

N Bromley

INSPECTOR