



Appeal Decision

Site visit made on 12 March 2024

by N Kempton BA(Hons) PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2024

Appeal Ref: APP/N4720/W/23/3335584

29 Lowther Drive, Garforth, LEEDS LS25 1EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Zach Wheatley against the decision of Leeds City Council.
 - The application Ref is 23/05202/FU.
 - The development proposed is construction of a 4-bedroom dormer bungalow with associated external works.
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Decision

1. The appeal is allowed, and planning permission is granted for a 4-bedroom dormer bungalow with associated external works at 29 Lowther Drive, Garforth, Leeds LS25 1EW in accordance with the terms of the application, Ref 23/05202/FU, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. The appellant submitted the following plans as part of the appeal submission, post decision:
 - Proposed Drainage Layout ref: 23884-101r-23-12-12 v1.0.
 - Proposed Attenuation ref: 23884-102r-23-12-12- v1.0.
 - Domestic Drainage Details ref: 23884-103r-23-12-12- v1.0.
 - Flow Results ref: 23884.
3. These plans provide further information but do not alter the proposed development and the Council has seen and had opportunity to comment on these plans. Therefore, in this case, the parties would not be prejudiced in my consideration of this evidence. As such the appeal has been assessed on the basis of these plans.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area; and whether adequate drainage arrangements are made for the disposal of foul and surface water from the site.

Reasons

Character and appearance

5. The west side of Lowther Drive is characterised by paired semi-detached properties, the scale, massing, and footprint of which are relatively modest. The siting of these semi's is regular following the consistent building line and layout of planned development. There are a mix of dwellings on the east side of

Lowther Drive - the development is varied in terms of height, massing, and style. However, consistency is derived from dwellings being set back behind established gardens and boundary treatments.

6. The proposed development would occupy a plot of land that is presently garden associated with 29 Lowther Drive. This is an elongated garden, which would be subdivided to serve the existing dwelling- a bungalow at the eastern end of the site- and the proposed dwelling. A front garden area with space for landscaping would be retained. The proposed site layout would be similar in arrangement to other properties on the east side of the street, occupying formerly elongated plots, which have been subdivided and developed incrementally.
7. The siting of the proposed dwelling, including its garage, would broadly align with 19a and would therefore respect the alignment of built form in the street, which runs parallel north to south. The siting of the proposed dwelling and garage would also relate well to the alignment of 64 Lowther Grove, as Lowther Drive turns the corner leading into Lowther Grove. As such, the proposed development would respect the building line and pattern of development evident in these former garden plots.
8. The style, type and massing of the proposed dwelling would contribute to and reinforce the varied street scene. The proposed east and west elevations are compact in form and modest in scale, with low eaves serving to visually limit the height of the gabled roof form. The height of the proposed dwelling, which includes accommodation in the roof space, would be comparable to, and even lower than, dwellings in the immediate locality, some of which similarly have accommodation in the roof space. The north and south elevations, whilst elongated, would reflect the plot layout. The garage would be subservient to the host building. The bulk and massing of the appeal scheme would assimilate into its context.
9. For these reasons, the proposed dwelling on this infill plot would make a positive contribution to the pattern of development of this residential area, as described above. The size, scale, design, and layout of the development proposal would be appropriate to its context and would respect the character and appearance of the area. As such, it would be in accordance with Core Strategy policy P10, which sets out key design principles.
10. Furthermore, there would be no conflict with: Unitary Development Plan (UDP) policy GP5, which requires development proposals to resolve detailed planning considerations including design; policy HBE9 of the Garforth Neighbourhood Plan, which defines character areas, the appeal site being in Area 1 West Garforth.

Drainage

11. The proposed drainage layout, proposed attenuation; domestic drainage details; and flow results are commensurate with the scale and impact of proposed development- specifically, a single dwelling on the appeal site, which presently forms garden associated with a property that is located within an established and predominantly residential area.
12. I note the objections from neighbours relating to drainage. However, based on the evidence before me and in view of the characteristics of the site, there is no compelling evidence that would lead me to conclude that there would be

harm to drainage. Furthermore, on this, basis, details relating to drainage could be addressed in a related condition- as included in the schedule at the end of this decision. Therefore, adequate drainage arrangements for the disposal of foul and surface water could be achieved, in accordance with the requirements of core strategy policy EN5 relating to Managing Flood Risk, WATER7 of the Natural Resources and Waste Local Plan (NRWLP) and policy HBE6 of the Garforth Neighbourhood Plan, which set out requirements and expectations for sustainable drainage system proposals for housing development.

Other Matters

13. I understand that trees and hedges have previously been removed on this site. However, concerns related to boundary treatments are addressed in a related condition included in the schedule of conditions at the end of this decision. The condition reserves details of boundary treatments and secures implementation prior to occupation of the development and retention thereafter, in the interests of visual and residential amenity.
14. I have had regard to the representations related to the effect of the proposed development on local wildlife. The proposed development would result in the loss of a residential garden. However, there is no substantive evidence that this would result in unacceptable harm to biodiversity.

Conditions

15. I have adjusted or omitted, some of the Council's suggested conditions in the interests of necessity, precision, and clarity, in proportion to the scale and nature of the development and to reduce the burden of unnecessary submissions and processing of further applications where sufficient information has already been provided.
16. In addition to the statutory time condition (1), which is required to ensure compliance with Section 91 of the Town and Country Planning Act 1990, a condition listing the approved plans (2) is needed to ensure clarity of what has been permitted. A condition (3) regarding boundary treatments is necessary in the interests of visual and residential amenity. Condition (4) refers to materials to be used in the external finishes of the development and is warranted to secure an appropriate palette, in the interests of the appearance of the development and the visual amenities of the area.
17. Conditions (5,6&8) are required to ensure the free and safe use of the highway/footway. The approved plan referred to in Condition (6) shows appropriate visibility splays and therefore submission of this information is not required. Condition (7) is necessary in the interests of highway safety and promoting sustainable travel opportunities. Condition (9) is needed to enable the local planning authority to ensure that unexpected contamination at the site will be addressed appropriately and that the development will be 'suitable for use' with respect to land contamination. However, the wording has been edited for brevity. Condition (10) is necessary to achieve appropriate site levels/height relationship in the interests of visual amenity.
18. Notwithstanding the submitted details and the appellant's comments regarding the Council's suggested condition relating to drainage, condition (11) is required to reserve details of the implementation, adoption, maintenance and

management of the sustainable drainage system for surface water and foul drainage. This condition is necessary to ensure sustainable drainage, flood prevention and pollution control. It needs to be a pre-commencement condition in order that the ability to comply with the requirement is not prejudiced by the carrying out of building works or other operations on the site. The measures are required for the full duration of the works.

19. While the Planning Practice Guidance advises that conditions limiting permitted development rights should only be used in exceptional circumstances, to ensure that sufficient garden space remains for future occupiers, and to protect the appearance of the area, it is necessary to remove permitted development rights for enlargement of the dwelling and additions and alterations to its roof under Classes A and B. Condition (12) would not prevent such development, but would bring it under planning control.
20. The Council suggested a condition related to the vehicular access. The existing access will be utilised. The appellant has confirmed that the existing junction will not be altered- all works will remain on private land. As such this condition was deemed unnecessary and has been omitted.
21. The Council suggested a condition requiring the provision of an electric vehicle charging point and securing its installation and retention thereafter. However, this matter is covered by Building Regulations. As such this condition was deemed unnecessary and has been omitted.

Conclusion

22. For the reasons above, the appeal is allowed.

N Kempton

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan ref:029/03(02)001.
Proposed Elevations and Floor Plans ref:029/03(02)020 REV D.
Roof and Site Plan ref: 029/03(02)010 Rev Roof and site plan.
Sections/Cross Sections ref: 029/03(02)040.
Proposed Drainage Layout ref: 23884-101r-23-12-12 v1.0.
Proposed Attenuation ref: 23884-102r-23-12-12- v1.0.
Domestic Drainage Details ref: 23884-103r-23-12-12- v1.0.
Flow Results ref: 23884.

- 3) No part of the development shall be occupied until details of the position, materials and type of walls and/or fences or permanent boundary/screening treatment, whether or not shown to be erected on the approved plans, have been submitted to and approved in writing by the local planning authority. Such walls and fences must also be erected in accordance with the approved details before the building to which they relate is occupied and shall be retained thereafter.
- 4) No development above ground level shall take place until details and samples of all external walling and roofing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 5) Any gates across the access road to the development site shall be set back 5 metres from the back edge of the highway/footway and only open inwards into the development site.
- 6) The visibility splays shown on the plan hereby approved, ref: 029/03(02)010 REV D, shall be implemented prior to commencement of the above ground floor slab level and retained clear of all obstructions to visibility greater than 1 metre in height above the adjacent carriageway for the lifetime of the development.
- 7) No part of the development shall be occupied until the approved cycle/motorcycle parking and facilities have been provided. The approved facilities shall be retained thereafter.
- 8) No part of the development shall be occupied until all areas shown on the approved plans to be used by vehicles, including roads, footpaths and vehicle parking spaces, have been fully laid out, surfaced and drained such that loose materials and surface water does not discharge or transfer onto the highway. These shall not be used for any other purpose thereafter.
- 9) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 10) The dwellinghouse hereby approved shall be constructed as to achieve the site levels/ height relationship as shown on approved plan ref: 029/02(02)010 REV D titled Proposed roof and site plan.
- 11) Notwithstanding the submitted information, development shall not commence until a drainage scheme (i.e. drainage drawings, summary calculations and investigations) detailing the surface water and foul drainage (which shall be a separate system) works, as well as arrangements for its future maintenance (e.g. adoption by the Water Company) have been submitted to and approved in writing by the local planning authority. The maximum rate of discharge, off-site, shall not exceed the greenfield rate, unless otherwise agreed in writing with the local planning authority. The works shall be implemented in accordance

with the approved scheme before the development is brought into use, or as set out in the approved phasing details.

- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no building, structure, extension, or enlargement permitted by Classes A and B of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be carried out within the curtilage of the dwelling hereby permitted without the prior approval in writing of the local planning authority.

END OF SCHEDULE OF CONDITIONS Appeal Ref: APP/N4720/W/23/3335584