

Appeal Decision

Site visit made on 30 April 2024

by N Kempton BAHons, PGDip, MA, IHBC, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/N4720/W/24/3339395

Nethertown Farm, Old Lane, Drighlington, Bradford BD11 1LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by MD Construction Ltd against the decision of Leeds City Council.
 - The application Ref is 23/06636/FU.
 - The application sought planning permission for 36 residential dwellings, landscaping and associated infrastructure and inclusion of land to form open space without complying with condition 2 attached to planning permission Ref 17/02163/FU, dated 9 August 2021.
 - The condition in dispute is number 2 which states that: the development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.
 - The reason given for the condition is: for the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission has been granted for 36 residential dwellings, landscaping and associated infrastructure and inclusion of land to form open space. The appeal seeks to vary condition 2 of that permission in order to re-site the dwelling on Plot 6.
3. Plot 6 is a semi-detached house attached to the dwelling within Plot 5. At the time of my site visit, the construction of Plots 5 and 6 were nearing completion. As such the permission sought under this appeal is retrospective, albeit neither property appeared to be occupied.
4. Alterations to Plot 5 are evident on the plans and elevations, and indeed, observed on site. However, this appeal relates only to Plot 6. As such, I will confine my assessment to the alterations as they pertain to Plot 6.

5. The main issues are the effect that the amendments to Plot 6 would have on the:

- living conditions of neighbouring occupiers of properties in Old Lane with particular regard to privacy;
- living conditions of future occupiers of Plot 5 with particular regard to light and outlook;
- character and appearance of the area with regards to design.

Reasons

Living conditions- neighbouring occupants

6. Plot 6 and Plot 5 form an L-shaped, two- storey building at the turning head of the cul-de-sac. Situated at the south-eastern corner of the development site, the rear boundary of Plot 6 borders the rear gardens associated with a short terrace of properties in Old Lane, in the village of Drighlington.
7. The re-siting of the house on Plot 6 projects beyond the rear elevation of Plot 5 along the shared boundary. The dwelling now extends closer to the rear site boundary, thereby reducing the rear garden depth of this plot.
8. The windows in the rear facing gable end of Plot 6 afford future occupiers direct overlooking into the living accommodation and gardens associated with the properties in Old Lane. This compromises neighbour privacy, undermines the purpose of a private garden and detracts from the enjoyment of the external amenity area for the neighbouring occupiers.
9. Whilst comparable views of the neighbouring gardens would have been obtained from the first-floor bedroom windows of Plot 6 as approved, the re-positioning of Plot 6 as amended, results in the dwelling being sited closer to the shared rear boundary and therefore closer to the neighbouring properties in Old Lane.
10. Whilst the appellant considers that the movement would be modest in figurative terms, the practical effects would be more pronounced on the ground. The proximity of Plot 6 and the increased size of the openings on the rear gable combined with the more acute angle of overlooking from the first floor level, would heighten the perception of overlooking and exacerbate actual overlooking, and would diminish privacy to an unacceptable degree. This would be compounded by the relative larger scale of the dwelling within Plot 6 to its neighbours, its orientation, and the assertive design of its rear gable end.
11. The objectives of the Neighbourhoods for Living SPD include safeguarding privacy and amenity. I have had regard to the separation distances set out in this guidance document and noted the precise wording. Ultimately, the SPD is by definition guidance which does not diminish the importance of site-specific assessment. Given my observations on site, the scheme would cause an unacceptable loss of privacy.
12. The amendments to Plot 6 would have a detrimental effect on the living conditions of the neighbouring occupiers of properties in Old Lane, with particular regard to privacy, contrary to policy P10 of the Leeds Core Strategy

(2019). This policy seeks high quality design based on a thorough contextual analysis, and that protects and enhances a number of things including useable space, privacy and satisfactory penetration of sunlight and daylight. The amendments to Plot 6 would also be contrary to policy GP5 of the Leeds Unitary Development Plan (2006), which states that development proposals should resolve detailed planning considerations and seek to avoid problems such as loss of amenity.

13. The appeal proposal would be contrary to paragraph 135(f) of the National Planning Policy Framework (the Framework), which states that development should create a high standard of amenity for existing and future users.

Living conditions- future occupants

14. The re-siting of the dwelling within Plot 6, and the length of its mass extending along the shared side boundary, would have an enclosing effect upon the garden associated with Plot 5, resulting in loss of outlook and overshadowing to main living areas and the external amenity area. The approved through room layout, larger openings and the re-siting of the single storey lean-to projection to the rear of the house within Plot 5 would mitigate, in part, the loss of light arising from the re-siting within Plot 6. Therefore, loss of light to the open plan kitchen and dining area would not be significant.
15. However, these amendments would be insufficient to fully mitigate the impact of the siting and massing of the two- storey gable projection of Plot 6, which would offer an assertive two storey unembellished flank wall to people within Plot 5. This would diminish the outlook associated with Plot 5, to an unacceptable degree. This is notwithstanding the size of the rear garden or any enhancement arising from the reduction in overshadowing to the principal elevation.
16. As such, the appeal scheme would be contrary to Policy P10 of the Leeds Core Strategy (2019), which seeks high quality design based on a thorough contextual analysis, and that protects and enhances a number of things including useable space, privacy and satisfactory penetration of sunlight and daylight. The amendments to Plot 6 would also be contrary to policy GP5 of the Leeds Unitary Development Plan (2006), which states that development proposals should resolve detailed planning considerations and seek to avoid problems such as loss of amenity.
17. Furthermore, the appeal proposal would be contrary to paragraph 135(f) of the National Planning Policy Framework (the Framework), which states that development should create a high standard of amenity for existing and future users.

Character and appearance

18. There is an interesting, eclectic variety of architectural forms and detailing in the locality, which positively contribute to the local distinctiveness and character of the area. The amended plans and elevations for Plot 6 show enlarged apertures with tripartite casement windows and additional openings. Alterations to the arrangement and style of fenestration to Plot 6 as proposed, would not substantially erode the visual interest and integrity of the design concept. The appeal scheme for Plot 6 would not materially diminish the authorised scheme's reflection of local distinctiveness.

19. As such, the effect of the re-siting of Plot 6 upon the character and appearance of the area, would be in accordance with Policy P10 of the Leeds Core Strategy (2019), which seeks high quality design based on a through contextual analysis, appropriate to its location, scale and function.
20. Furthermore, the amendments to the external appearance of Plot 6 would be in accordance with paragraph 140 of the Framework, which requires local planning authorities to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme.

Conclusion

21. Whilst I have found that the amendments to Plot 6 would not materially diminish the scheme's contribution to the character and appearance of the area, I conclude that the appeal proposal would provide inadequate living conditions for the neighbouring occupiers of properties in Old Lane and future occupants of Plot 5, with particular regard to privacy and outlook.
22. For the reasons given, the development is contrary to the relevant policies of the development plan when read as a whole and there are no material considerations to indicate that a decision should be taken other than in accordance with that plan.
23. Therefore, the appeal is dismissed.

N Kempton

INSPECTOR