



Appeal Decision

Site visit made on 2 January 2025

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2025

Appeal Ref: APP/Q3060/W/24/3351158

Land Adjacent to 4 Trelawn Close, Nottingham NG5 4DG

- 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 Mrs J Roberts against the decision of Nottingham City Council.
 - The application Ref is 23/02034/PFUL3.
 - The development proposed is new two storey building containing four one bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading has been taken from the decision notice and has also been used in the appeal form as it is more precise.
3. The scheme was amended throughout the course of the original application process. I have taken the description of development from the decision notice and the appeal form as this accurately describes the proposal.
4. Since the determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. Parties have been given the opportunity to comment on the changes and I have had regard to these in the determination of this appeal.
5. The fourth reason for refusal on the decision notice was related to concern the Council had regarding the proposed accommodation size on a site which they considered could be capable of accommodating family housing. The Council has confirmed in their statement of case that they concede on this reason for refusal. It has therefore fallen away, and I have determined the appeal accordingly.
6. Daylight and sunlight diagrams and calculations were submitted with the appeal that did not form part of the original application. Although the Council has commented on these, I cannot be sure that all interested parties have seen these and have had the opportunity to make representations on them, giving rise to procedural unfairness. For that reason, I have not accepted or considered this information.

Main Issues

7. The main issues are the effect of the proposed development on:
- the character and appearance of the area; and
 - the living conditions of neighbouring occupiers with particular regard to parking, outlook, daylight, sunlight and privacy.

Reasons

Character and appearance

8. The appeal site is an irregular shaped parcel of land on the eastern side of Trelawn Close, a residential cul-de-sac. The residential area is in close proximity to Sherwood town centre. The site is currently vacant land with only a shipping container on it. The appeal site is predominantly flat but slopes significantly down towards the north-eastern boundary, beyond which are the rear gardens of terraced properties that front Dornoch Avenue. These properties are at a significantly lower level than the appeal site.
9. Whilst some of the properties in the area vary in design, they are predominantly traditional pre and post-war two-storey terraced and semi-detached red brick built properties with pitched or hipped roofs, with many containing rendered elements. The use of timber-effect cladding is not a prevailing characteristic of properties in the surrounding area. This general consistency contributes positively to the character and appearance of the area.
10. The proposal would introduce a large, irregular shaped, flat roofed two-storey building which seeks to make best use of the irregular shaped site. The front elevation facing Trelawn Close, has been designed to give the appearance of a double fronted detached building with bay elements and a side extension, which would be set approximately half a storey lower with timber-effect cladding.
11. While the appellant contends the proposal would reflect the character of the area, including being two-storey and built in red brick, I find this is where most of the similarities end. While proposals do not need to exactly replicate their surroundings, the Framework advises that proposals should be sympathetic to local character, including the surrounding built environment.
12. The use of the flat roof, timber-effect cladding and irregular shape would result in a contemporary style of building which would appear as incongruous and prominent addition to the streetscape, at odds with the prevailing character of the surrounding residential built form and would not appear as a traditional frontage, which the appellant contends.
13. The proposed scheme picks up few design cues or proportions from the surrounding residential properties on nearby streets, such as the brick detailing and fenestration size. The windows on the bay elements of the front elevation, would appear noticeably narrow in relation to the width of the bay, with large amounts of brickwork surrounding them. This is in stark contrast to the wider windows and bays seen on the front elevation of other properties in the vicinity.

14. I acknowledge that the shape of the plot limits the scope for designing a building with the plan form of neighbouring properties. However, I find that the above factors I have discussed, in combination with the irregular shape, results in a proposal which would appear harmfully at odds with the design and form of the surrounding properties and as such would fail to enhance the streetscape of Trelawn Close. This harm would be exacerbated by the prominence of the proposal from the rear of properties fronting Dornoch Avenue and when approaching the junction of Marshall Street and Trelawn Close from the south-west and north-west.
15. Given the scale of the proposal, it would not materially alter the wider townscape or reading of the town. However, this does not justify the proposal which I have found would harm the local environment and character of the area.
16. Although flat roofs may be present in the wider area, these are not a prevailing characteristic of the immediate vicinity. The example cited by the appellant relates to a commercial building, thus is not directly comparable.
17. On this issue, I conclude that the proposed development would unacceptably harm the character and appearance of the area. It would thus conflict with Policies DE1 and DE2 of the Nottingham City Land and Planning Policies Development Plan Document Local Plan Part 2 (2020) (LAPP). These taken together, amongst other matters, seek development which respects and enhances the local character and context. It would also conflict with Policy 10 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan (2014) (ACS). This seeks development which makes a positive contribution to the public realm and sense of place, amongst other matters.

Living conditions

Parking

18. The Council and interested parties are concerned that the proposal would create additional demand for on-street parking which would lead to increased competition for parking spaces. The proposal would only provide one off-street parking space. However, the site is well located within walking distance to local services, bus stops and wider public transport options, meeting guidance issued by the Institute of Highways Engineers¹. A cycle store would also be provided. Therefore, not all occupiers would necessarily own a car, however this cannot be guaranteed. It is not inconceivable to consider that cumulatively, the future occupants of the four flats could own more than four vehicles. Moreover, whilst the site may be suitable for lower or no car provision and reflects the need to reduce the dominance of motor vehicle, there is no indication within the evidence that any mechanism is proposed which would formally restrict future occupants from owning a car or limiting the number of vehicles. As such this argument carries limited weight.
19. At the time of my visit on a weekday morning, whilst only a snapshot in time, there was some on-street parking availability, although it was limited. Given that most properties in the vicinity of the appeal site have either none or very limited off-street parking, the availability of existing spaces would likely diminish further in the evenings when most people return from work.

¹ Ref: Providing for Journeys on Foot (2000)

20. I have had regard to the representations from interested parties and the Highways Authority. While the Highway Authority comments were made when the scheme was for six flats, they nevertheless highlight that the close proximity of the local centre further adds to parking pressure in the area, with customers and commuters parking on streets in the vicinity of the appeal site. Furthermore, I note that the Highways Authority have considered the area for a permit scheme. Though this may not yet have been formally consulted on or introduced, it further adds to my concern that parking is an issue in the area.
21. The appellant has drawn my attention to two other schemes which they consider demonstrate that parking provision is sometimes negotiable and where the Highway Authority has adopted a different approach to this scheme. Limited information has been provided on the Sherwood library scheme, including 22 flats and loss of the public car park. As such I cannot be sure of the circumstances which led to its approval. However, the location of that scheme is within a local centre and not a residential street, thus is not directly comparable. The scheme on Mapperley Street, involved the removal of three garages. The Council state these were too small to fit modern vehicles and that the erection of a single dwelling did provide off-street parking. This scheme is for four flats, the quantum of development is different and as such not directly comparable.
22. Having regard to the information before me and without any substantive evidence to the contrary, such as a parking survey, I find that the proposal would contribute to parking stress in the area, to the detriment of existing residents.

Outlook

23. Given the location of the proposal, relative to the properties on Fairbank Crescent, I do not consider the proposal would have an adverse effect on the residents living on Fairbank Crescent. Whilst it would change the outlook for those properties facing the appeal site on Trelawn Close, given the intervening road and that the land levels are the same as the appeal site, there would not be a materially harmful effect to outlook.
24. Turning to the properties on Dornoch Avenue, even if I were to take the 12 metre separation distance cited by the appellant, this does not mean that the scheme automatically provides an acceptable outlook. A 12 metre separation distance, whilst it may meet guidance, is not a substantial distance. The outlook of these properties on the ground floor is dominated by the banking. Given the significant land level differences between the appeal site and the rear of these properties, the proposal would be approximately one storey higher than those on Dornoch Avenue, akin to a three storey building. Consequently, in combination with the separation distance, the proposal would appear dominant and overbearing from the rear of these properties, having a materially adverse effect on the outlook of these occupiers, compared to the existing situation.
25. Although the rear elevation would be stepped in to break up the massing, given the land level differences I find this would not sufficiently mitigate against the harm identified.

Daylight & sunlight

26. No 48 Fairbank Crescent is sited south of the proposal, thus would be no material loss of sunlight or daylight for these occupiers. The siting of the proposal relative to the properties on the opposite side of Trelawn Close, means that some overshadowing would likely occur during the morning, this would only be for a limited part of the day and so would not unduly harm the living conditions of the occupiers of those properties.
27. Given the south-westerly orientation of the rear of properties and gardens on Dornoch Avenue, shadowing of their gardens would be likely to occur from the properties themselves during the morning. However, the proposed scheme would likely cause shadowing during the afternoon to those gardens and rear elevations of those properties on Dornoch Avenue closest to the appeal site. Thus, the rear of these properties and gardens would likely experience significant overshadowing for much of the day. The effects of any overshadowing and loss of sunlight and daylight would be exacerbated by the elevated position of the proposal. This would result in an unacceptable impact on the living conditions of those occupiers. Given the significant land level differences, the inclusion of a setback on the first floor rear elevation does not alter my concerns on this issue with respect to light afforded to those properties.
28. The appellant contends that the scheme would create a similar shadowing situation as the relationship between No 48 Fairbank Crescent and No 32 Dornoch Avenue, however No 48 is set further back than the appeal proposal and as such is not directly comparable. Even if the relationship was the same, it does not justify harming the living conditions of neighbouring occupiers.

Privacy

29. The proposed building would have ground floor side windows facing the side elevation of 48 Fairbank Crescent, these windows would be below the height of the boundary fence, thus there would be very limited opportunity for any overlooking.
30. The rear elevation facing the rear of properties on Dornoch Avenue would have an obscure window on the ground floor and a small window on the first floor. Given the narrow width of the first floor window and its angled position, any opportunities for overlooking would be at an oblique angle and would be very limited, towards the end of the rear gardens. As such I do not find this would unacceptably harm the living conditions of those occupiers in relation to privacy.
31. The Council raised no concerns regarding any overlooking from windows on the front elevation of the proposal. Given the intervening road and that frontage of properties are typically less private being in the public domain, I see no reason to come to a different view.
32. On this issue, I find that the proposed development would not have an unacceptable effect on levels of privacy currently afforded to neighbouring occupiers.

Living conditions conclusion

33. I have found that the proposed development would not cause unacceptable harm to the living conditions of neighbouring occupiers in relation to privacy. However, this does not overcome the unsatisfactory impacts I have identified in relation to parking, outlook, sunlight and daylight on the living conditions of neighbouring occupiers.
34. Consequently, I conclude that the proposal would have a harmful effect on the living conditions of neighbouring occupiers with particular regard to parking, outlook, sunlight and daylight. This would conflict with Policy DE1 of the LAPP which, amongst other matters, seeks proposals that ensure satisfactory levels of amenity for neighbouring occupiers. It would conflict with Policy DE2 of the LAPP, which amongst other matters, seeks development which does not generate levels of on street parking which would have a detrimental impact on the amenity of local occupiers. The proposal would also not be in accordance with Policy 10 of the ACS in so far as it seeks to ensure development creates a safe, inclusive and healthy environment and to consider the effect on the living conditions of nearby residents.

Other Matters

35. I recognise that small sites can make an important contribution to meeting housing need and often can be built out quickly. The proposed flats would make efficient use of vacant land, contributing to the supply of housing in the area. However, given the small-scale nature of the proposal, the extent of this benefit would be limited and would not be sufficient to outweigh the harm I have identified.
36. Whilst paragraph 73b of the Framework encourages local planning authorities to seek opportunities for small sites to come forward for self-build and custom build housing, there is no evidence in the application form or the submitted information that this scheme meets the definition of such housing set out in the glossary of the Framework. As such this argument does not weigh in favour of the scheme.

Conclusion

37. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

T Bennett

INSPECTOR