
Appeal Decision

Site visit made on 19 July 2019

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/R1038/W/19/3222836

17 Green Lea, Dronfield Woodhouse, Dronfield S18 8YA

- 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 Mr & Mrs David Kavanagh against the decision of North East Derbyshire District Council.
 - The application, ref. 18/00685/FL dated 4 July 2018, was refused by notice dated 4 October 2019.
 - The development proposed is a new single storey 3bed dwelling to the rear garden of 17 Green Lea with associated landscape and access.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the proposed development upon:
 - the character and appearance of the locality; and
 - the living conditions of the existing and future occupiers, with particular regard to the provision of private garden space, overlooking, light and outlook.

Reasons

Emerging North East Derbyshire Local Plan 2014-2034 (ELP)

3. I note that the Council is currently in the process of adopting a new Local Plan (2014-2034). The plan has been submitted for examination and has been subject to hearings undertaken in November and December 2018 and March 2019. The Council refused the application subject to this appeal citing the ELP Policies SS1, SS7 and SDC12 and has sought that I give weight to these policies as a material consideration to the determination of this appeal. Once adopted the ELP would replace the saved Policies of the North East Derbyshire Local Plan 2005 (LP).
 4. Emerging Policy SS1 of the ELP relates to sustainable development and lists a number of principles which broadly reflects Saved Policy GS1 of the LP, however seeks further principles to sustainable development such as protecting the character, quality and setting of the towns and villages, amongst others. Emerging Policy SS7 of the ELP covers windfall sites and broadly reflects Saved
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Policies GS5 of the LP where it seeks that development not be detrimental to the character and appearance of the area. Emerging Policy SDC12 of the ELP is a place making and design-led policy that broadly reflects Saved Policies BE1 and H12 of the LP and which is where the Successful Places Design Guide would also be attached to with regards to setting principles for good design.

5. In my application of paragraph 48 of the National Planning Policy Framework (the Framework), whilst the ELP is not part of the adopted development plan, it is at an advanced stage in the adoption process, and in my opinion the emerging policies would appear to be consistent with the Framework. I am also mindful that the examining Inspector may wish to re-open the examination to hear further evidence which could result in further changes and additions to these policies and accompanying text. Based upon this, I will afford the ELP policies moderate weight in this appeal decision.

Character and appearance

6. The appeal property is located to the side and rear garden of No17 Green Lea which lies on a corner site on a bend along Green Lea as it traverses into a cul-de-sac. The dwellings which make up Green Lea are part of a larger speculative development which appears to date from the late twentieth century. The dwellings maintain a very similar design and layout which consists of brick bungalows with gable facing toward the road edge, there is a regimented setback between properties with a single carport/garage to the side and larger setbacks from the front boundary and larger rear gardens. Gaps between properties are important to the layout in that views are obtained to well vegetated rear gardens and the open countryside beyond can also be experienced which is a positive characteristic. Boundary treatment consists of low dwarf front boundary walls with large areas of lawn to the front garden and vegetation which are positive attributes to the character of the street scene. To me, this spacious character and open and well vegetated aspect helps to inform the character and appearance of the area.
7. Whilst the appeal site is within a designated settlement boundary and in principle would be an appropriate location, Saved Policies GS1, GS5, BE1 and H12 of the North East Derbyshire Local Plan (LP) seek amongst a number of principles, that development adhere to the character and appearance of the area and reinforce local distinctiveness. These policies are supported by a design guide called Successful Places 2013, which is a joint design guide from the Councils of Bassetlaw, Bolsover, Chesterfield and North East Derbyshire. The Design Guide, particularly at Chapter 3 talks about character and appearance and how successful places are derived from design which is informed by its context, character and function within the street. Similar provisions to achieving good design are also given in emerging Policies SS1, SS7 and SDC12 of the ELP.
8. Unlike the surrounding context, the proposed dwelling would introduce built form to the rear of the plot which has little relationship to the character and appearance of the street scene. Whilst the proposal would have a similar front setback, the dwelling would take up much of the rear garden of No17 with both the existing No17 and the proposed development having significantly undersized private gardens than surrounding. No17's resultant garden would also be confined to the side of the plot, rather than to the rear. It would also appear that part of the private garden to the proposed dwelling would be to the front garden which would also not be in keeping with the general layout and pattern

of development in the area. Whilst I acknowledge comments that the Successful Places Design Guide seeks that flexibility can be had to the provision of private garden space, this is also dependent upon the existing character, layout and appearance of the area, which this proposal does not conform to.

9. With relation to layout, the surrounding dwellings have rear gardens where average sizes are between 140Sqm – 180Sqm. The Council estimates that the rear garden of the proposed dwelling would be approximately 46Sqm, whereas the existing No 17 Green Lea would not have a rear garden, with the majority of garden confined to the side of the house which would be of 50Sqm, well below the average size and layout of plots within the surrounding area.
10. The proposal would not adhere to the spacious quality of the area and would be experienced as a cramped development that intrudes into the open and undeveloped aspect along this street. When combined with the minimal setback from the side boundaries, and the small garden spaces proposed for the existing and proposed dwellings, the appeal scheme would also be at odds with the development surrounding, and in my view, would be cramped and incongruous to its locality.
11. Given my above reasoning, the proposed scheme would cause significant harm towards the character and appearance of the area. The scheme would therefore be contrary to saved Policy GS1 of the LP (which seeks sustainable development through the improvement of the quality of the built environment); saved Policy GS5 of the LP (which seeks that development within settlement boundaries would not be detrimental to the character and appearance of the site), saved Policy BE1 Of the LP (which amongst a number of design principles, seeks that development respects the character and appearance of the surrounding area); and saved Policy H12 of the LP (which amongst a number of principles, seeks that new development respects the character of the site, its surroundings and contributes to local distinctiveness); which is supported by the Successful Places Design Guide (which sets a number of design led principles to enable development to be appropriate to its context). The scheme would also be contrary to emerging Policy SS1 of the ELP (which amongst a number of principles, seeks that development protect and/or enhance the character, quality and setting of towns and villages); emerging Policy SS7 of the ELP (which amongst a number of principles, seeks that windfall sites are appropriate in scale, design and location to the character and function of the settlement); and emerging Policy SDC12 of the ELP (which amongst a number of design criterion, seeks that development responds positively to local character and context).

Living Conditions

12. The Successful Places Design guide at Section 3.11.16 states that family houses are likely to require larger gardens, preferably in the range of 70-100 Sqm, but not less than 50Sqm. Whilst I note that it is sought for me to consider the front garden space to be part of the overall private garden space, I am not convinced this would be 'private' but more semi-private and more akin to the front garden. The Council estimate that the rear garden of the proposed dwelling would be approximately 46Sqm, whereas the existing No 17 Green Lea would have a side garden space of 50Sqm, well below the minimum standard specified. That said, the proposed development would provide an inadequate level of amenity space

to the proposed or existing dwelling and conflict with saved Policies GS5 and H12 of the Local Plan and emerging Policy SDC12 of the ELP.

13. Turning to outlook and loss of light, the main concerns regarding the appeal property arise from the proposed dwelling and its proximity to the shared boundary to No19 Green Lea, the existing dwelling at No17 and No15. The proposed dwelling would be positioned very close to the rear of No17 and would almost obliterate the outlook gained from the rear of the property. The positioning of the building in relation to the windows to the rear of No17 would cause a significant loss of outlook and light as a result of the proposal and cause a dominant and overbearing presence compared with the existing situation. That said, in my view the scheme would present unacceptable living conditions towards No17 in regard to loss of outlook and light.
14. Whilst No19 and No15 would experience loss of outlook as a result of the proposal, I would not find this to be unreasonable with the dwellings still able to achieve an adequate outlook as a result of the positioning and size of their respective gardens. Given the single storey nature of the site and the boundary treatment proposed, overlooking into neighbouring properties would not be a level where it could be perceived as being unacceptable.
15. That said, the proposed dwelling would not comply with saved Policy GS5 of the LP (which seeks that development not have a detrimental effect on the amenities of neighbouring occupiers); and saved Policy H12 of the LP (which amongst a number of principles, seeks that new development not damage the amenity of adjoining land and premises); The proposal would also be contrary to emerging Policy SDC12 of the ELP (which amongst a number of principles, seeks to protect the amenity of existing and future occupiers). These policies are also supported by the Successful Places Design Guide which sets parameters for the appropriate integration of development to avoid impacts to amenity of future and existing occupiers.

Other Matters

16. I note comments with regards to a covenant on the land which may prevent such development. Covenants are civil issues and are not part of a planning determination and as such have not been considered as part of this appeal.
17. I note that the Framework encourages the development of small sites and making effective use of urban land in accessible locations. I also note the benefits which derive from the generation of short term employment opportunities in the construction of the scheme, the contribution of a dwelling to the Council's housing supply and the resultant local expenditure from future occupiers to local services. Whilst these benefits favour the scheme it does not outweigh the harm I have identified.
18. I also note discussion on the process of the application in that the appellant feels aggrieved that the original application was refused by Committee Members who disagreed with the opinion of its professional officers who recommended approval of the scheme. Council Members are not bound by the opinion of their professional officers, but need to make a robust evaluation of the matters if they disagree. I have found too that the scheme fails on its adherence to the character and appearance of the area and with regards to living conditions, and hence the concerns of Council Members was justified in this particular case.

Conclusions

19. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR

