



Planning Committee

15 November 2018

Planning Appeals

Report of the Executive Manager - Communities

LOCATION	21 Kendal Court, West Bridgford, Nottinghamshire, NG2 5HE		
APPLICATION REFERENCE	17/02658/FUL		
APPEAL REFERENCE	APP/P3040/W/18/3202198		
PROPOSAL	Demolition of bungalow and erection of 10 apartments with associated parking.		
APPEAL DECISION	Appeal Dismissed	DATE	6th August 2018

PLANNING OFFICERS OBSERVATIONS

The Inspector considered that the main issues were:

- The effect on the living conditions of neighbouring occupants of Rutland Road with regards to overlooking, and the occupants of 9-12 Kendal Court with regards to outlook, overlooking and light.
- The effect on the character and appearance of the area
- The effect on the Grantham Canal Local Wildlife Site (LWS).

Noting that the impact on views across privately owned land is not a material planning consideration, the Inspector correctly observes that this is separate from the provision of adequate outlook. They were of the opinion that the proposal would create a restrictive and oppressive outlook for the occupiers of 9-12 Kendal Court. This would be due to the overbearing relationship between the proposed buildings as a result of the height, scale and continuous massing of the development in close proximity to its neighbours. This would dominate the outlook from the sole windows of habitable rooms where residents are likely to spend much of their time during the day.

Looking at the impact of the proposal on properties on Rutland Road the inspector did not agree that the development would lead to material harm to the living conditions of the occupiers of these dwellings with regards overlooking due to the significant separation distance of the proposal from these dwellings.

Similarly they did not agree that the proposal would result in a loss of privacy to the

neighbouring properties on Kendal Court due to the use of the proposed adjacent rooms and the inclusion of obscure glazing.

The inspector observed that the proposal would stand some 3.3 metres above the height of nearby dwellings 9-12 Kendal Court. However, a detailed Sunlight Shadow study submitted by the appellant demonstrates that the proposal would not lead to any undue loss of light to the habitable room windows of Nos 9-12 as a result of the location and orientation of the development.

The prevailing matter identified by the inspector was the impact of the proposed development on the outlook of 9-12 Kendal Court to which, in their view, would be significant harm. Consequently, the proposal would conflict with the NPPF which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. It would also conflict with Policy GP2 of the Rushcliffe Borough Non-Statutory Replacement Local Plan (Replacement Local Plan) which, amongst other things, requires that development should not be overbearing in relation to neighbouring properties.

Looking at the impact upon the character and appearance of the area, the Inspector was of the opinion that whilst the wider area has examples of high density development, the proposal would represent over development in the context of its immediate surroundings within Kendal Court. The proposed 3 storey development would fill much of the plot which would create a massing of development that would be at odds with the 2 storey residential properties, which stand within more spacious grounds, and dominate the character of the area.

The Inspector observed that the development would be located very close to the canal towpath. They viewed, as a consequence of the massing created by its width and height, the proposal would create a dominating urbanising effect in contrast to, and exacerbated by its edge of countryside location. Landscaping in the form of a hedge would only go some way in softening the impact of the development given the striking height of the building when viewed in close proximity from the towpath.

The existence of other buildings close to the towpath was noted by the Inspector, however, in their view the differing orientation and absence of a significant amount of glazing and the presence of balconies substantially reduces the existing buildings impact and distinguishes them from the dominating presence that would be created by the development.

In addition, the level of glazing proposed would notably increase the amount of overlooking of the canal and the existence of balconies would lead to an increased opportunity for dwell time by the residents of the development. Therefore, the inspector considered that even if the impact on the privacy and tranquillity of canal users would be short lived as they pass by the development, the development would have a notable impact on the character of the area.

The Inspector agreed that the proposal would harm the character and appearance of the area and as such would conflict with the NPPF which seeks to ensure the design of development responds to local character and reflects the identity of its surroundings. It would also conflict with the part of Policy GP2 of the Replacement Local Plan which states that the scale, density, height, massing and design of proposals should be sympathetic to the character and appearance of neighbouring buildings and the surrounding area.

Despite the concerns raised by the Canal and River Trust regarding the impact of the proposal on the adjacent Local Wildlife Site, the Inspector was satisfied that it would be possible to address the matter through appropriately worded conditions to secure provision, implementation and retention of a satisfactory landscaping scheme including control over the height of the northern hedge boundary.

The Inspector acknowledged that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. Paragraph 11 of the NPPF sets out that where the relevant policies in the development plan are out of date, the presumption of sustainable development means that for decision taking planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or specific policies in the NPPF indicate that development should be restricted.

The benefits of the development were identified by the Inspector, including the utilisation of previously developed land in an appropriate location for residential development that has access to services and facilities. It would also make a positive contribution to the housing land supply of the Borough, generating some social benefit. The development would provide natural surveillance over the canal towpath and the Inspector saw no reason to suggest that it would pose a risk to the safety of canal users or those on the towpath. However, the Inspector identified significant harm to the character and appearance of the area and the living conditions of the occupants of the 9-12 Kendal Court and concluded that these adverse impacts would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the NPPF as a whole and accordingly dismissed the appeal.

LOCATION	140 Browns Lane Stanton On The Wolds Nottinghamshire NG12 5BN	
APPLICATION REFERENCES	17/02495/FUL 18/00164/FUL	
APPEAL REFERENCES	APP/P3040/W/18/3203806 APP/P3040/W/18/3203816	
PROPOSAL	Construct	replacement dwelling
APPEAL DECISION	Appeals Dismissed	DATE 1st October 2018

PLANNING OFFICERS OBSERVATIONS

A joint appeal was submitted in relation to two applications for a replacement dwelling on the site. The size and scale of the replacement dwelling considered under appeal B was slightly smaller than the replacement dwelling considered under appeal A.

The appeal site is located on Browns Lane, Stanton on the Wolds, an area which is washed over by Green Belt. The key considerations were;

1. whether the proposal was inappropriate development within the Green;
2. the effect of the proposal on the openness of the Green Belt;
3. the effect of the proposal on the character and appearance of the area; and,
4. if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

The Inspector concluded that;

The existing dwelling is a detached two bedroom hipped roof bungalow with a conservatory attached and an adjacent garage. It has no accommodation within its restricted roof space. The proposed flat roofed replacement dwelling would have a larger footprint than the bungalow and at first floor would repeat the volume of its ground floor with four large bedrooms and accompanying bathrooms. The first floor of this house would occupy a space considerably larger than that occupied by the bungalow's hipped roof. As a result, the scale and mass of the dwelling would be considerably greater than the existing bungalow. The Inspector noted that the dwelling would be lower than the highest part of the roof of the existing bungalow, however, he concluded that height alone is not an accurate way of comparing the size of dwellings of such different shapes. For those reasons he considered that the replacement dwelling proposed in each of the appeals would be 'materially larger' than the one it would replace and the proposals therefore constituted inappropriate development in the Green Belt.

In terms of openness, he stated that the increase that would occur in the quantum of development overall, if either of the proposals were built, would be considerable and would adversely affect openness.

In terms of design, he noted that the flat roofed design with extensive glazing and contrasting use of render and cedar cladding would be quite different to the existing dwelling. However, he considered that the horizontal emphasis of the flat roofs and balconies would be offset by the vertical emphasis in the main elevations of floor to ceiling glazing resulting in well-balanced dwellings in both schemes.

No other considerations were put forward by the appellant in support of the proposed developments, therefore, it was not necessary to determine if there were any 'very special circumstances' to outweigh the identified harm to the Green Belt.

The appeals were dismissed.