
Appeal Decision

Site visit made on 1 November 2016

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2016

Appeal Ref: APP/Z2315/W/16/3155066

7 Southern Avenue, Burnley, Lancashire BB12 8BF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Alan Kerr against the decision of Burnley Borough Council.
 - The application Ref APP/2016/0118, dated 13 March 2016, was approved on 3 June 2016 and outline planning permission was granted subject to conditions.
 - The development permitted is outline application for erection of single dwelling including details of access and layout (other matters reserved for future approval).
 - The condition in dispute is No 7 which states that: *"No development shall start until a scheme detailing the improvements to the junction of Southern Court and Ightenhill Park Lane has been submitted to and approved in writing by the local planning authority. The development hereby approved shall not start until the scheme has been implemented in accordance with the approved details."*
 - The reason given for the condition is: *"In the interests of highway safety having regard to the poor sightlines at the junction of Southern Court and Ightenhill Park Lane."*
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Decision

1. The appeal is dismissed.

Background

2. Outline planning permission was granted for a single dwelling subject to a condition requiring improvements to be undertaken at the junction of Southern Court and Ightenhill Park Lane. The condition was imposed by the Council as a result of the conclusion reached by the Inspector in the appeal decision on the opposite side of Southern Court in 2009.¹ This permission has subsequently been renewed², so it remains extant, but it has not yet been implemented.
3. The appellant considers the condition is not relevant to the development permitted and is unreasonable as it would place an unjustifiable and disproportionate burden on him. He considers the impact of a single dwelling is not severe enough to justify the improvements at the junction and such works would be delivered through the implementation of the larger housing development on the opposite side of Southern Court in any event.
4. In addition to the appellant's case, the occupant of 9 Southern Court points out that this appeal does place the entire planning permission granted by the Council at risk. In this regard, notwithstanding the Council's decision, the occupants of No 9 express concern relating to the effect of the development on

¹ Appeal Decision Ref: APP/Z2315/A/08/2090284

² Council Application Ref: APP/2015/0233

their living conditions and the living conditions in 7 Southern Avenue as well as the character and appearance of the area.

Main Issues

5. The main issues are: (i) whether the condition is reasonable or necessary in the interests of highway safety at the junction of Southern Court and Ightenhill Park Lane; (ii) the effect of the proposed dwelling on the living conditions of the occupiers of No 9 and the future occupiers of 7 Southern Avenue, with regards to privacy, light and outlook; and (iii) the effect of the proposed dwelling on the character and appearance of the area.

Reasons

Highway Safety

6. Southern Court is a relatively narrow access leading off Ightenhill Park Lane. The surrounding area is heavily influenced by residential properties, with The Ochils to the south of the junction and the semi-detached pairing of 68 and 70 Ightenhill Park Lane to the north. The latter is set back from the highway and a footway runs across the frontages of each property. A street tree protrudes forward of the footway, beyond which a grass verge extends in front of dwellings to the north. A low timber post and rail fence lines the boundary of The Ochils, behind which are mature trees and shrubs. The junction of Ighten Road and Ightenhill Park Lane is to the south east of the Southern Court junction. Extended views along Ightenhill Park Lane can be obtained to the south, although the course of the road does vary.
7. Public transport and a variety of facilities and services are within a reasonable proximity of the appeal site. Whilst occupants of the dwelling may choose to walk, cycle or use public transport and thus reduce the need to travel by car, I do not consider that this would eradicate all car journeys, given the indicative drawing indicates the dwelling would be a four bedroom family home.
8. Vehicular traffic would rely upon the junction of Southern Court and Ightenhill Park Lane. Neighbouring dwellings also use this access and junction that is physically constrained, due to restricted sightlines, especially to the south. Vehicles egressing onto Ightenhill Park Lane need to pull forward of the junction and onto Ightenhill Park Lane in order to achieve adequate visibility in either direction. Ightenhill Park Lane is a well-used distributor road that serves residential properties in the area.
9. Even though this appeal only relates to a single dwelling, and there may not have been any reported incidents, the effect of additional vehicles using this junction without adequate visibility in a southerly direction would only add to longstanding highway safety concerns. Allied to this, the width of Southern Court does create a conflict point with vehicles turning into the access from Ightenhill Park Lane, especially from the south as they are unable to see any vehicles or pedestrians approaching the junction. Consequently, reversing manoeuvres would be required onto Ightenhill Park Lane, causing potential conflict with other road users on Ightenhill Park Lane or its junction with Ighten Road. Thus, I consider the condition is relevant to the development to be permitted as the effect of not undertaking any improvement works would be severe, notwithstanding the scale of the development.

10. Whilst concerns are expressed that a build out into the highway would narrow Ightenhill Park Lane, the condition requires an improvement scheme to be agreed between the appellant and the Council. Such concerns could be addressed in the design of the scheme.
11. Despite the appellant's contention that mitigation measures have already been undertaken at the junction, I could not see any evidence of these. Moreover, regardless of the outline planning permission for a larger development, this is a separate site and despite the owner's intentions, this has not been implemented to date. Thus, neither have the associated highway improvements. Given the severity of the junction, the proposal would in its own right, place added demand and pressure.
12. I am mindful of the cost of the suggested works arising from compliance with the disputed condition. The Highway Authority advises that a build out onto the highway could cost in the region of £12,000 to £15,000. The costs of an improvement scheme would undoubtedly have a bearing on the development. However there may be other cost-effective means to address the matter. In any event, the appellant has not evidenced that the costs would render the development unviable, especially given the projected costs do not include the resurfacing of Southern Court. Consequently, I consider the condition would not place an unjustifiable or disproportionate burden on the appellant and that the dwelling would still contribute towards boosting the supply of housing.
13. As draft Local Plan Policy IC1 is not adopted, I do not give it any significant weight. Nevertheless, it would not alter my findings in terms of ensuring the dwelling is served by an access with adequate visibility splays.
14. For these reasons, I conclude that the condition is relevant to the development to be permitted and reasonable in all other aspects in the interests of highway safety at the junction of Southern Court and Ightenhill Park Lane. The removal of this condition would conflict with Policy GP1 of the Burnley Local Plan Second Review (Local Plan), which seeks, amongst other things, to ensure developments do not detrimentally affect highway safety.

Living Conditions

15. The proposed dwelling would be sited in-between Nos 7 and 9. Central to the resident's objection is the distance between the flank elevation of No 9 and the flank elevation of the new dwelling. The flank elevation of No 9 contains a dining/kitchen window and four other openings. All of the windows are obscure glazed except for the dining/kitchen window, which is also served by another opening in the front elevation facing onto Southern Avenue and the verdant Ightenhill Park beyond. This window faces in a south easterly direction. The window in the flank elevation faces north easterly. A low timber boundary fence extends alongside the appeal site and No 9. Directly in front of the flank dining/kitchen window is a row of leylandii that sit within the appeal site.
16. Whilst the drawing commissioned by the occupant of No 9 may illustrate a lesser separation distance, the extent of the difference is relatively small. I recognise the lesser figure would potentially lead to a blank gable elevation being closer to the occupants than that shown on the appellant's plans. However, the south east facing dining/kitchen window is slightly larger than the flank window. It therefore provides the occupants with an unobstructed outlook and a source of light that would extend longer into the day unlike the

flank window. Remaining openings in the gable of No 9 are all smaller obscure glazed openings. Whilst the dwelling may reduce light into these, I do not consider this would amount to an undue level of harm given their orientation, size and the rooms they serve.

17. I understand the concerns of No 9, in terms of a sense of enclosure, however the flank dining/kitchen window already looks out onto a row of leylandii that confine the space in front of this window. Whilst the dwelling would be likely to be much taller than the leylandii, this is an outline scheme with all matters reserved except for access and layout. Moreover, given the other window has an unaffected outlook, I do not consider the dwelling would result in an oppressive enclosing effect.
18. In terms of privacy, no windows are shown in the flank elevation of the proposal on the indicative drawing. Whilst this could change, it is nevertheless a matter for consideration at reserved matters.
19. The proposal would due to its siting have a bearing on the current and future occupants of No 7. Although the current incumbents may not have concerns regarding the relationship, due regard does need to be had to any future occupants. The current spacing between Nos 7 and 9 is larger than others in Southern Court. Whilst the separation distance would be reduced to approximately 9 metres to the kitchen in No 7, I do not consider that the layout of the proposed dwelling would cause undue harm to the privacy or outlook of the current or future occupants.
20. For these reasons, I conclude that the proposal would comply with Policies GP1 and GP3 of the Local Plan, on this issue, with respect to the way that the proposed development would relate to surrounding buildings and residents' living conditions.

Character and Appearance

21. The size of Nos 7 and 9 in terms of their width are greater than the semi-detached properties closer to the junction of Southern Avenue and Ightenhill Park Lane. The proposal would be a detached house that would take account of the neighbouring detached dwellings. The proposal would infill the space in-between Nos 7 and 9 which would alter the character and appearance of the sites. Even so, and despite the current respective plots being appreciably wider, spacing would be retained on both sides of the dwelling to Nos 7 and 9. Thus, I do not consider the proposed layout would result in a cramped form of development that would detract from the character and appearance of the area.
22. I conclude that the proposal would comply with Policies GP1 and GP3 of the Local Plan, on this issue, in terms of the proposed development positively contributing to local distinctiveness through quality design and by reflecting the layout in the area.

Conclusion

23. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR