

Appeal Decision

Site visit made on 28 November 2016

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 5th December 2016

Appeal Ref: APP/C2741/W/16/3156389

22 Copmanthorpe Lane, Bishopthorpe, York YO23 2QR.

- 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 Mrs J A Featherstone against the decision of City of York Council.
 - The application Ref: 16/00912/FUL, dated 1 April 2016, was refused by notice dated 11 August 2016.
 - The development proposed is a single storey property to the rear of 22 Copmanthorpe Lane.
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Preliminary Matters

1. I note that the Appellant has been unhappy with the service offered by the Council. However this is not a matter which is pertinent to the appeal before me.
2. The description of development above is a condensed version of that included on the application and appeal forms. It accurately describes the development. The application form has 2 dates and I have used the latest date (1 April) which is the date on the declaration of the application for planning permission.
3. The Council has accepted that the proposal would be acceptable in respect of flood risk, highway safety and parking (subject to a planning condition) and in other respects not dealt with below. I have no reason to disagree with that position.

Decision

4. The appeal is dismissed.

Main Issues

5. The main issues in the appeal are:
 - (a) the effect of the proposed development on the character and appearance of the locality;
 - (b) the effect of the proposal on the living conditions of the adjoining occupiers.
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Reasons

Character and Appearance

6. The appeal site currently forms the narrow rear garden of the Appellant's home, an end of terrace dwelling fronting onto Copmanthorpe Lane. The site is alongside New Lane which is a private lane leading to a number of properties.
7. The dwelling proposed would only just fit onto the width of the plot, with room for a pedestrian access to the western side away from the lane. The eastern flank wall would run alongside the lane itself. At this point New Lane is narrow, and the dwelling would be tightly located against its margin such that it would bring a sense of enclosure to the lane over a significant part of its length. In addition the bulk of the dwelling (albeit designed to be no more than 4m in height) would reduce the feeling of spaciousness which currently exists.
8. I recognise that the relatively small outbuilding which occupies part of the site at present would be removed as part of this proposal, and that there is a fence along much of the boundary with New Lane. But even so the building proposed would be of much greater impact and would be perceived as being squeezed into a plot which is too small to take it comfortably. It would be an incongruous and bulky addition at odds with the prevailing characteristics of this residential area. As a result my overall conclusion on this issue is that the proposed dwelling would be unduly harmful to the character and appearance of this part of Bishopthorpe.
9. A number of other developments in gardens or other small plots have been brought to my attention, and I saw these at my site visit. However, none appears to exhibit similar characteristics to the appeal site or have a comparable relationship with its site or surrounding highways. As a result these examples do not assist my reaching a decision in this case.
10. Policy GP1 of the 2005 City of York Draft Local Plan (dLP) seeks to ensure that development proposals respect or enhance the local environment and are of a scale and mass compatible with neighbouring buildings, spaces and character. In relation to the subdivision of gardens Policy GP10 also seeks to avoid detriment to the character and amenity of the local area. In view of the harm I have identified above the proposal is in conflict with these policies.

Living Conditions

11. As I noted above the site is formed from a narrow garden. The garden to the west is similarly narrow. The proposed dwelling would be a short distance from the common boundary and would extend over much of its length. The narrow space between the dwelling and the boundary would also be the principal pedestrian route to the dwelling. This configuration raises 2 concerns.
12. First, the extent and bulk of the dwelling so close to the boundary would be bound to have an impact on the enjoyment of the adjacent narrow garden. Irrespective of whether the current owners have expressed a view it is my judgement that the new structure would be a dominant and overbearing presence so close to the outdoor amenity space of the neighbour. It is also likely that there would be some overshadowing of the neighbouring garden. I realise that boundary vegetation and /or fences can also have an impact and can change over time. Nonetheless the dwelling proposed would have an immediate and harmful impact upon living conditions.

13. The second concern is the access route to the dwelling. Though it may not be frequently used there is the potential for some noise and disturbance to occur through the necessity for residents and visitors to travel alongside the boundary with the neighbour's garden. I bear in mind here that the dwelling would be permanent and the occupants would change in the future, with the potential for a different impact. This matter is not sufficient to warrant dismissal of the appeal in its own right, but adds to my concerns that the appeal site is just too small to satisfactorily accommodate the proposed dwelling.
14. Policy GP1 of the dLP seeks to avoid existing residents being affected by overshadowing and overbearing structures. Hence the proposal is in conflict with this policy because of the impact I have described above.
15. In relation to both main issues I have found undue harm would result, and conflict with the dLP. The policies cited are in general conformity with the National Planning Policy Framework (NPPF) which seeks to ensure that new development fits comfortably in its surroundings and does not unacceptably affect the amenities of existing residents.

Other Matters

16. The Appellant has brought to my attention that the dwelling is required for a person suffering from disability. The public sector equality duty (PSED) contained in the Equality Act 2010 requires me to give consideration to this matter in reaching a conclusion on the appeal, though it does not follow that the appeal will necessarily succeed.
17. I give significant weight to the needs of the Appellant in this respect. However, the harm I have identified above also carries great weight in the balance I am required to strike. In this case it is my judgement that the planning harm, and conflict with both local and national policy is of the greatest weight. I understand that dismissal of the appeal would require a different approach such as adaptation of the existing home, and that this is not the Appellant's preferred option. However in balancing the matters brought to my attention, and in light of all the information before me I find that a permanent dwelling on this site would not be acceptable in this case.

Overall Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR