

Appeal Decision

Site visit made on 18 January 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 7 February 2017

Appeal Ref: APP/W0530/W/16/3159171

68 High Street, Balsham, Cambridge CB21 4EP

- 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 and Mrs Maison against the decision of South Cambridgeshire District Council.
 - The application Ref S/0915/16/FL, dated 24 March 2016, was refused by notice dated 26 May 2016.
 - The development proposed is the erection of a replacement garage and detached single storey dwelling (pursuant to lawful development certificate S/2717/15/LD)
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Decision

1. The appeal is dismissed insofar as it relates to the new dwelling. The appeal is allowed insofar as it relates to the replacement garage and planning permission is granted for the erection of a replacement garage at 68 High Street, Balsham, Cambridge CB21 4EP in accordance with the terms of the application, Ref S/0915/FL, dated 24 March 2016, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Development shall be carried out in accordance with the following plans so far as they are relevant to the development hereby permitted: 13/050/105 Rev B, 13/050/108 Rev A and 13/050/103 Rev A.
 - 3) No development shall commence until details/samples of the materials to be used in the construction of the external surfaces of the garage hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples

Procedural Matter

2. I have taken the appeal site address as a combination of those shown on both the planning application and appeal forms since it most accurately identifies the site to which the proposed development relates. I have determined the appeal on this basis.
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Main Issues

3. There are two main issues. These are the effect of the development on a) the living conditions of the occupiers of Number 34 The Rookery and b) the character and appearance of the area.

Reasons

Living Conditions

4. The proposed dwelling would be located to the rear of the appeal site which itself is the rear garden to Number 68 High Street. The appeal site is on a slightly lower ground level to the rear garden of No 34 The Rookery and close boarded timber fencing and planting forms the boundary between the two gardens. The rear garden of No 34 is shallow and tapered.
5. I note that the proposed dwelling would be stepped off from the boundary, further away than one of the existing outbuildings and owing to the design of the roof; it would lean away from No 34. Nevertheless, one can clearly appreciate the roof section of the aforementioned existing outbuilding and the proposed dwelling would be of substantially greater a scale, notwithstanding that it would be sat on a lower ground level. The proposed dwelling would occupy a space almost the entire length of the rear boundary of the garden to No 34. When placing these factors in the context of its limited depth, I can reach no conclusion other than that users of the garden to No 34 would feel a strong sense of being enclosed by built form. The building would dominate the outlook from the garden to the extent that existing occupiers would experience an overbearing effect.
6. I am mindful that the appeal before me follows a previous scheme for an ancillary residential building which was refused planning permission and dismissed at appeal. The concerns of the previous Inspector in that case were, amongst other things, the size and design of the building, its positioning and thus effect on the living conditions of the occupiers of No 34. Whilst I do acknowledge that a number of changes have been made to the previous design and siting, the resulting scheme has been assessed on its own merits, and found to cause harm in the manner that I have described.
7. For these reasons, the proposed development would cause harm to the living conditions of the occupiers of No 34 The Rookery. As such, it would conflict with Policy DP/3 of the Local Plan¹. This Policy, amongst other things and along with one of the core principles of the Framework², seeks to ensure a good standard of amenity for all existing and future occupiers of land and buildings.

Character and Appearance

8. The appeal site is a deep rear garden, extending north from the rear of the existing dwelling which faces south towards High Street. Whilst frontage depth in the street scene varies and there is a tight urban grain, the dominating element that contributes significantly to the character of built form and space

¹ South Cambridgeshire District Council Local Development Framework Development Control Policies Development Plan Document July 2007

² The National Planning Policy Framework 2012

in the area is frontage development with largely open and undeveloped rear gardens.

9. This character is not limited to the immediate street scene. I accept that dwellings fronting a small lane to the east of the appeal site (behind 58-56 High Street and leading to Nine Chimney's Lane) do vary in their siting and orientation but remain as single tier plots.
10. The erection of a new detached dwelling in the rear garden would therefore introduce a form of development out of keeping, in terms of its nature and location, with that which currently exists. This would be harmful to the character of the area. Being to the rear of the site I accept that it would not be immediately obvious but the removal of the existing garage to create an access would allow views of the proposed dwelling from High Street. This would be appreciable as an additional tier of development and as such also harm the appearance of the area.
11. The appellant states that dwellings fronting The Rookery are visible through gaps in built form that fronts High Street, specifically through the appeal site itself. This layering visual effect would not, in the appellants view, materially change through the siting of the proposed development. However, it is the rear elevations of the dwellings fronting the Rookery that are visible and it is this, coupled with intervening buildings and boundary treatments that results in them being not read as an additional tier of development. They neither front nor are they accessible from High Street. This would not therefore justify the development in my view.
12. Whilst I accept that the removal of a modern and obvious flat roof building in the shape of the existing garage would be beneficial to the appearance of the street scene, I do not consider that it would be sufficient to overcome the harm that I have identified.
13. For the above reasons therefore, the proposed development would conflict with Policies DP/2 and DP/3 of the Local Plan. These Policies seek to ensure, amongst other things and along with section 7 of the Framework, new development is of a high quality and contextually appropriate design and appearance and preserves or enhances the character of local areas.

Proposed Replacement Garage

14. The proposed garage is in effect a replacement building for the use of the appellant and the existing dwelling. It is clearly distinct from the proposed new dwelling with which it would have no functional relationship. I find the erection of a single storey ancillary building in the location proposed to be well designed, subservient to its host and so sited to ensure it would not be harmful to the living conditions of neighbouring occupiers. I therefore conclude that the garage would be in accordance with Policies DP/2 and DP/3 of the Local Plan.
15. These Policies, amongst other things and along with the Framework, seek to ensure a good standard of amenity for existing and future occupiers of land and buildings as well as high quality and contextually appropriate design and appearance of new development that preserves or enhances the character of local areas.

Other Matters

16. My attention is drawn to the issuing of a Lawful Development Certificate³ (LDC) for the erection of a detached ancillary outbuilding. The appellant states that an application has been submitted to building control and works shall commence on site as soon as is practically possible. The appellant asserts that the issuing of this LDC is a material fall-back position insofar as it could result in the same building, in the same location as the proposed development.
17. Whilst this may be the case, the issuing of an LDC for the outbuilding is a judgement purely of whether it would benefit from deemed planning permission under the relevant legislation, specifically the GPDO⁴. In making this judgement, the Council are not required to assess and come to a view on whether or not it would cause demonstrable harm in planning terms. In effect, the issuing of such a certificate would not automatically mean that the proposed development before me should be absolved of being subject to a full assessment of its effects in planning terms.
18. In addition, the LDC was issued in respect of an outbuilding which would be incidental to the enjoyment of the dwelling. By its nature, an outbuilding would be ancillary to its host, would not have a separate access, a distinct curtilage and other domestic paraphernalia that may be associated with the appearance of a separate dwelling. Its effect on the character and appearance of the area would therefore be fundamentally different to the proposed development.
19. It does not therefore follow, for these reasons, that a planning permission should be granted for a separate dwelling in light of the issuing of the above mentioned LDC.
20. The appellant requests in their evidence a partial award of costs against the Council in respect of one of the reasons for refusal. However, I have no formal application for costs before me nor any further detail of precisely how the Council may have acted unreasonably so that such an award would be justified.

Conditions

21. For clarity and certainty, I have attached both the standard time condition and the approved plans insofar as they are relevant to the development permitted. Since there is no detail shown on the submitted plans pertaining to the external materials for the proposed garage, I have imposed a further condition to agree them. Since this would go to the heart of the planning permission, these details would need to be agreed prior to the commencement of development.

Conclusion

22. For the reasons given above, I conclude that the appeal should be allowed insofar as it relates to the garage, but dismissed insofar as it relates to the new dwelling.

John Morrison

INSPECTOR

³ LPA Ref S/2717/15/LD

⁴ The Town and Country Planning (General Permitted Development) (England) Order 2015