
Appeal Decision

Site visit made on 7 February 2017

by Helen Heward BSc (Hons) MRTPI

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

Decision date: 27th February 2017

Appeal Ref: APP/N4720/W/16/3163512

**Land adjacent to 11 and 37 Church Drive, East Keswick, Leeds,
West Yorkshire LS17 9EP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by J W T Developments against Leeds City Council.
 - The application Ref 15/07670/FU, is dated 4 November 2015.
 - The development proposed is the construction of three detached three bedroom houses with detached garages.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During negotiations with the Council the application was amended from three to two dwellings. The appellant subsequently requested that the plans for three dwellings be reinstated together with revised layout plans. It is on that basis, and for the scheme shown on Drawings 1047/01B, 1047/03/A, 1047/05D, 1047/02E and 1047/05D, that I have determined the appeal.
3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan (DP) unless material considerations indicate otherwise. The Leeds Core Strategy 2014 (CS) and saved policies of the Leeds Unitary Development Plan (Review 2006) (UDP) comprise the relevant parts of the UDP in this appeal.
4. The site is open land within the built up area of the village of East Keswick. It is also within the designated East Keswick Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Main Issues

5. I consider that the main issues in this case are the effect of the design of the proposed scheme upon (i) the character and appearance of the locality, with particular regard to the CA, and (ii) the living conditions of occupiers of dwellings adjacent to the site.
-

Reasons

Character and appearance

6. The site is located within an area of the CA aside from the historic core. It is characterised by relatively modern two-storey dwellings. Significantly they appear relatively well spaced and set back from the road. These details give the locality a uniformity of character and appearance. In the immediate locality the site is seen as a grassed area between two blocks of two-storey flats. The flats are set back behind an open frontage and a residential road which surrounds an oval grassed area. The layout of the roads, buildings and spaces provide a spacious landscaped setting, with a distinct sense of place within the wider residential area.
7. The wide frontages and oval central space afford uninterrupted views towards the site where the three dwellings would be seen. In most of the available views the spaces between the back edge of the highway and the front of the proposed dwellings would appear shallow in comparison to that of the open frontages to the blocks of flats to either side. The front walls of the houses would appear to sit closer to the road and central space than the flats do. The houses would sit between two larger blocks of flats with solid frontages and although frontages could be kept open, driveways would be used for parking vehicles.
8. Although the proposed dwellings would sit between two larger blocks of flats with solid frontages, they would be seen as detached houses in the context of surrounding two-storey detached houses in the locality. In this way the spacing between the proposed dwellings would be significant. Two 3m gaps would be seen between the three dwellings. On plan such spacing appears not dissimilar to some gaps between existing two-storey detached dwellings in the locality. However, I observed that whilst there were gaps roughly 3m wide at ground level, at first floor level and above the gaps between existing dwellings are generally much wider. In most views it is these higher level gaps that the eye is drawn to, and which give an impression of space between dwellings which contributes to the overall spaciousness of the layout. The gaps between the proposed dwellings would be only 3m wide from ground level to ridge height. These gaps would appear distinctly tall and narrow.
9. The 3m gaps would not conflict with advice in the Council's Supplementary Planning Guidance 13 'Neighbourhoods for Living – A guide for residential design in Leeds, 2003' (SPG). There would be quite wide spaces of approximately 7m between the end dwellings and side boundaries which would be greater than recommended in the SPG and not out of keeping with the locality. Overall the layout, siting and space around buildings may not conflict with the distances specified at page 57 of the SPG. However, the standards are intended as guidance and the effect of the proposed layout in relation to the character and appearance of the locality is also an important consideration.
10. The development would not impact upon the setting of the historic core of the village, and in this way I find no conflict with CS Policy P11. The Council raise concern about the visual impact of parked cars to the front of the dwellings, but parking already occurs on the road in front of the site.
11. There is nothing to say that the development would not be of a sustainable design and construction, or that the quality of the design of the dwellings would

not be high. Although some residents object to the design, the Council raise no objection to the design of the houses and garages. I find that whilst the design would not copy that of nearby houses, the two-storey detached houses with ridges parallel to the road would preserve key aspects.

12. I conclude that the narrow gaps between the three dwellings and the relatively shallow spaces between the back edge of the highway and the front of the proposed dwellings would make the proposed development appear cramped and the overall layout of the development would lack the spaciousness that characterises the locality.
13. In these ways the proposal would fail to preserve the distinctive character and appearance of the locality and significant characteristics of this part of the CA. The proposal would therefore fail to comply with requirements of CS Policy P10 (i) that requires, amongst other things, that the layout of development is appropriate to its context. The proposal would also fail to comply with aims of Saved UDP Policies N13 and N19 to ensure high quality design with development that is harmonious with adjoining buildings and the area as a whole, and which conserves or enhances the character or appearance of a conservation area and historic environment. The proposal would also fail to comply with advice in the National Planning Policy Framework (Framework) which includes that planning should always seek to secure high quality design (paragraph 17) and that development should promote or reinforce local distinctiveness (paragraph 60).

Living conditions

14. At the eastern end of both blocks are flats. I am informed that the closest windows are not to habitable rooms but there are also large windows to habitable rooms at ground and first floor level. Presently these windows offer the occupants a direct close view across the appeal site. The proposal includes two-storey gable ends which at their closest would be 12m from the windows.
15. To the south of the appeal site the flats are set at a lower level and the windows are north facing. From the ground floor window the two-storey gable would appear tall and dark and quite enclosing. On my visit, stood in front of this window, I found that views toward the gable would be quite direct.
16. The proposals might satisfy guidelines in the SPG for the separation between ground floor main windows to a side gable of a facing property, but they are just that. The gable would not contain any windows and would be set at an angle. There would not be any direct overlooking. A partial uninterrupted view toward the open frontages and central open space would remain. These details would mitigate some of the impact. Nonetheless, the gable would appear tall, close and directly in front and would occupy a large part of most of the views. For this broadly north facing room set at a lower level than the appeal site, this would have a significant adverse effect upon the existing living conditions of the occupiers of this flat.
17. From the first floor flat window above, the gable would occupy less of the view, with a greater amount of sky remaining visible. In the block of flats to the north of the site, the flat windows are south facing and on slightly higher ground. The gable ends of the closest dwellings would not have a significant adverse effect upon the existing living conditions of the occupiers of these flats.

18. Three properties on Main Street adjoin the site. They have broadly west facing rear aspects and rear gardens and I am informed that they have uninterrupted views of sky and tree tops. The proposed dwellings would generally be 10m from the rear boundary and more than 21m from the rear elevations. This would exceed minimum separation distance guidelines in the SPG. These are only guidelines and I noted that the layout indicates that the most southerly dwelling would be slightly closer to the rear boundary than the other two. I do not doubt that at certain times of the day and year the proposed dwellings would cast shadows over parts of the back gardens of the dwellings on Main Street, but the gardens are relatively deep. The upper parts of the dwellings will also be seen above the boundary hedge. But from studying the submitted plans and my observations on site I am not persuaded that the proposed development would result in a level of overshadowing, overlooking or loss of amenity that would cause significant harm to the living conditions of the occupiers of these dwellings.
19. The two end dwellings would have driveways and accesses to the side adjacent to the ends of the blocks of flats. I am not persuaded that this arrangement and the comings and goings of the future occupiers of the dwellings would materially impact upon the living conditions of occupiers of the adjacent flats.
20. I conclude that the proposal would adversely impact upon the living conditions of the occupiers of a ground floor flat. The proposal would fail to satisfy requirements of CS Policy P10 and Saved UDP Policies GP5 and BD5 that, amongst other things, new development should seek to avoid loss of amenity and environmental intrusion. The proposal is also contrary to advice at paragraph 17 of the Framework that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

21. The principle of residential development on the site was established by outline permission in 2008 (LPA ref 08/01482/LA). That permission was renewed in 2011 but has expired (LPA ref 11/02553/EXT).
22. The Council's statement of case explains that the proposal meets the first requirement of CS Policy H2 that new housing development on non-allocated land should not exceed the capacity of local infrastructure. The proposal would make use of a vacant site within a built up area of the village. It is in a sustainable location within walking distance of shops and local facilities, and with access to public transport connections to centres of employment and other facilities. The proposal would therefore deliver three additional homes in a sustainable location. The future occupiers of the dwellings would be likely to make a small contribution to supporting local services and facilities.
23. The second part of Policy H2 states, amongst other things, that greenfield land should not be developed if it makes a valuable contribution to the visual and spatial character of an area. The Council assert that the proposal conflicts with this part of the policy because *'as this site is situated in a prominent location in the Conservation Area .. the scheme harms the special character of the area'* and therefore the scheme is not acceptable in principle.
24. However, that a site is prominently located does not equate to a valuable contribution. Nor does a finding of harm in relation to a specific development

proposal equate to evidence that a site must be retained in its present state. The Council previously accepted the principle of development on this site, and the reasons that the Council would have refused this application relate to matters of detail not principle. There is no evidence that the site is designated as open space. I find no conflict with Policy H2 and I attach a moderate amount of weight in favour to the benefits of the proposal identified above.

25. The Council has not provided an appraisal of the CA or the East Keswick Village Design Statement Supplementary Planning Guidance. Nonetheless, I was able to assess the significance of the CA in the locality of the appeal site on my site visit. The appellant also draws my attention to advice at paragraph 127 of the Framework, but the question of designation is not a matter for this appeal.
26. On my visit I found that the openness of the front of the site adjacent to the road contributed to the distinctive character and appearance of the locality, but that is not to say that the whole of the site makes a valuable contribution to the visual and spatial character of the locality. Nor that any development on the site would fail to preserve or enhance the character and appearance of the CA. On the contrary some built form could infill the gap between the flats, reducing and limiting views to the rear of development beyond, and creating a back drop to the landscaped area. I find no conflict with CS Policy H2.
27. The Council did not articulate the specific provisions of some policies which they consider the proposal fails. The report of the Chief Planning Officer to the Plans Panel North and East on 2 June 2016 recommended approval. A subsequent draft report for a revised scheme for two dwellings recommended approval. However, this is an appeal against non-determination of a scheme for three dwellings and I have determined this appeal on its planning merits from my site observations and the evidence before me.
28. Residents express concern at loss of parking and point out that there is little or no dedicated parking for the flats consequently the occupants park their vehicles on the road by the site and that the proposal will adversely affect highway safety. However the proposal makes provision for the parking needs of the proposed dwellings and there are no objections to the proposals from the Highway Authority. The Council does not object to the dwelling types proposed and there is no evidence before me to say what the housing needs for East Keswick are, in terms of size, type or tenure. There are concerns regarding site ownership and the application red line area. A Title or ownership dispute would not be for me to determine. There is little evidence about a mature blossom tree protected by a Tree Preservation Order.

Conclusions

29. The proposal would be harmful to the character and appearance of this part of the CA. Although the harm would be less than substantial the moderate weight I attach to the benefits of the proposal do not outweigh the harm. The proposal would also be harmful to the living conditions of the occupiers of a ground floor flat. Therefore, and taking all other matters raised into consideration, I conclude that the appeal should be dismissed.

Helen Heward

PLANNING INSPECTOR