

Appeal Decision

Site visit made on 19 April 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 04 May 2017

Appeal Ref: APP/H2733/W/17/3167036

Bairnswood School, Lady Edith's Park, Newby, Scarborough YO12 5PB

- 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 Thompson, Thompson Homes, against the decision of Scarborough Borough Council.
 - The application Ref 16/01918/FL, dated 19 September 2016, was refused by notice dated 15 November 2016.
 - The development proposed is the demolition of former pre-school, Bairnswood, and erection of 2 pairs of semi-detached two storey houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on i) the living conditions of neighbouring residents with particular regard to overlooking, outlook and noise disturbance and ii) the character and appearance of the surrounding area with particular regard to the level of development on the site and the proposed loss of a Sycamore tree.

Reasons

Living Conditions

3. The appeal site is a broadly rectangular parcel of land which is significantly set back from the highway and extensively surrounded by existing residential gardens. The site is accessed via a narrow driveway running between the existing properties at Nos 1 and 3 Lady Edith's Park.
 4. The proposed pair of semi-detached dwellings, known as Block 1, would be situated relatively close to the rear garden boundary of the dwellings at 3 and 5 Southlands Grove. The main two storey element of the block would be a little more recessed than the adjoining single storey garage and utility rooms. However, from the information before me and my visit, I am firmly of the view that this relationship would lead to the rear gardens of Nos 3 and 5, despite their angled orientation, being directly overlooked from upper floor bedroom windows at close range. This would result in an unacceptable loss of privacy for those residents. Whilst the existing building is a similar distance from the boundary, it does not have the same impact due to its single storey height.
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5. The proposed Block 2, whilst very close to the site boundaries at its nearest points, would be sited such that the rear elevation of the dwellings would be at a more oblique angle in relation to the rear boundaries of adjacent properties on Southlands Grove. In addition, a number of mature trees are present within the intervening spaces, which would afford a degree of screening. Accordingly the siting of Block 2 would not result in the same harmful impact on privacy compared to that associated with Block 1.
6. The existing dwellings on Southlands Grove bordering the site benefit from generously sized rear gardens. Whilst the rear garden of No 3 Southlands Grove is shorter than those associated with successive plots further to the south, I am satisfied having visited the site, that the proposed buildings would not be in such close proximity to existing dwellings to result in the sense of an overbearing presence that would lead to oppressive living conditions for existing residents. Similarly, whilst the dwellings would be situated close to existing garden areas, for garden users they would not appear so large in scale and mass as to dominate the outlook from these areas, with relatively open visibility continuing to be available in areas free from development to the north and south.
7. The appellant has made the point that vehicular movements associated with the proposed residential use would be similar to when the site was previously in use as a nursery and that neighbouring residents would not therefore experience any change to their living conditions in this respect. Whilst I acknowledge that it is important to have regard to the previous use of the site which could in theory be resurrected, I am also mindful that many third parties have said that parking associated with the nursery tended to take place on the adjacent highway rather than within the site, due to the inconvenience presented by the narrow driveway.
8. Having visited the site, it seems to me that the very limited width of the driveway and restricted forecourt area to the front of the building would have compromised convenient vehicle access and manoeuvring together with the safety of children. I consider that this would have deterred any significant or regular use of this road by vehicular traffic.
9. I am mindful that the proposal would introduce a relatively small quantity of residential development into an existing established residential environment. These land uses are the same and therefore, in principle, compatible with one another. However, I am persuaded, for the above reasons, that the proposed development would result in increased use of the driveway by vehicular traffic. The number of additional daily movements, associated with the four proposed dwellings, would not be huge and would be unlikely to result in frequent conflicts from obstruction. However, the driveway is immediately adjacent to the private gardens associated with Nos 1 and 3 Lady Edith's Park and I am in no doubt that residents of those properties would notice the noise associated with the amount of additional passing vehicles, albeit at limited speed. From the information before me, a compelling case has not been made by the appellant, that the noise associated with additional traffic would not result in disturbance to residents using their private garden areas.
10. I therefore conclude that the proposal would result in harm to the living conditions of existing residents resulting from overlooking and therefore loss of privacy to the occupiers of Nos 3 and 5 Southlands Grove and from noise

disturbance associated with additional vehicle movements to and from the site. I have not found harm in terms of outlook, however this would not overcome the aforementioned harm. The proposal would therefore conflict with Saved Policies H3 and H10 of the Scarborough Local Plan 1999 (LP) insofar as they seek to protect the living conditions of existing residents.

Character and Appearance

11. The appeal site is part of a residential area, characterised by two storey dwellings and bungalows. Lady Edith's Park itself, from where the site would be accessed, features wide grass verges and generous separation between dwellings opposite one another. This, together with the presence of street trees, results in a spacious and attractive environment. The appeal site is set back from the public highway and substantially surrounded by existing dwellings. The proposed dwellings, whilst visible at distance, would not be particularly prominent within the public realm and would not be seen to interrupt any strong sense of uniformity in terms of the pattern or density of development.
12. From the entrance to the site itself at the top of the access driveway, the proposed pairs of semi-detached dwellings and access turning head would utilise the entire site. However the pairs of dwellings would not appear so close to one another or the site boundaries that they would give the impression of being cramped.
13. The proposal would result in the loss of a mature Sycamore tree located at the rear of the site. I noted from my visit that the tree in question is visible from Lady Edith's Park and at closer range from Lady Edith's Crescent, to the rear of the site, through gaps between built development. The Sycamore is part of a small group of similarly sized garden trees. Whilst its loss would be unfortunate, the Council has not made me aware that it considers its contribution to the visual amenity of the area to be worthy of a formal Tree Preservation Order. Accordingly, and in the context of the adjacent trees that would be unaffected by the development, I am not persuaded that the loss of the Sycamore would result in a significant adverse visual impact.
14. I therefore conclude that the proposal would not result in harm to the character and appearance of the surrounding area with particular regard to the level of development on the site and the proposed loss of a Sycamore tree. It would not therefore conflict with Policies H3 and E12 of the LP insofar as they seek development to be designed to respect the surrounding character of the area. Neither would there be conflict with Policy E39 of the LP which seeks to minimise the loss of trees which make an important landscape contribution.

Other Matters

15. The appellant has made the point that the development would result in the removal of a potential source of disturbance associated with groups of nursery children playing. Whilst there may be some benefit in this regard, the nursery would have been limited in scale and in any event would generally be recognised as a compatible use within a residential area. I therefore attach limited weight to this consideration which would not outweigh the harm I have identified above.

Conclusion

16. I have not found harm in terms of the character and appearance of the area. However this is outweighed by my negative findings in terms of the living conditions for existing residents.
17. Taking into account the above, I am firmly of the view that providing a small amount of additional housing, albeit in a time of need, would not outweigh the design shortcomings of the scheme. Accordingly, the proposal in this case does not amount to sustainable development and the presumption in favour of such, as set out in the National Planning Policy Framework, does not apply.
18. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should not succeed.

Roy Merrett

INSPECTOR