
Appeal Decision

Site visit made on 21 March 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/N2739/W/16/3166323

Land to the rear of No 5-13 Stutton Road, Tadcaster, North Yorkshire LS24 9HE

- 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 T Wilson against the decision of Selby District Council.
 - The application Ref 2016/0145/FUL, dated 18 January 2016, was refused by notice dated 2 June 2016.
 - The development proposed is erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant states that the loss of a view or outlook is not a planning entitlement. Notwithstanding this, I acknowledge that the loss of a view is not generally regarded as a planning consideration or entitlement. However, the loss of outlook resulting from development is a material consideration as the development may create a sense of enclosure for neighbouring occupiers or have an overbearing effect on their living conditions, rather than simply resulting in the loss of a view. As a result, I have assessed the appeal proposal on the basis of its impact on the outlook of neighbouring occupiers.

Main Issues

3. The main issues are the effect of the proposed development on the:
 - character and appearance of the surrounding area; and
 - living conditions of neighbouring occupiers with regard to outlook.

Reasons

Character and appearance

4. The appeal site is a small area of land situated to the rear of a terrace of two-storey Edwardian houses. The rear of these properties is accessed by a narrow shared lane which leads from Stutton Road and runs between the houses and the western boundary of the appeal site. To the north and south of the site are larger dwellings on more spacious plots and to the east, the site adjoins a significant area of open space used for allotment gardens with further open areas beyond. The area is predominantly residential. However, there is no prevailing design, size and scale of development in the locality. As such, the
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built development in the wider area has no particular defining character. Notwithstanding this, the general character and appearance of the immediate area around the appeal site is open and is dominated by the terrace of houses to the west which are Nos 5-13 Stutton Road (Nos 5-13).

5. The appellant states that, although indicative of one form of development, the properties at Nos 5-13 do not characterise the area. I appreciate that there is a variety of development types which create a 'disjointed' character to the wider area. However, its proximity to Nos 5-13, I find that the proposal should have some regard to the character and appearance of those nearby properties. In this respect, I note that the proposed dwelling would be constructed with similar materials such as brick and have a clay pantile roof. Furthermore, whilst the initial appearance of the proposed dwelling would be of a single storey building, I note that the proposal has been designed to make use of the roof void in order to reduce its overall height and massing and be subservient to the terrace of properties.
6. Notwithstanding this, the Council argue that the proposal would result in a cramped, overdevelopment of the site which would detract from the existing openness and spacing of the immediate locality. In my view, the area including the appeal site provides a distinctive open character and appearance which connects the buildings on Stutton Road to the allotment gardens and open areas beyond. The extent of the detached dwelling on the appeal site would be substantial and it would have limited space around it. Whilst I appreciate the similarities between the proposed dwelling and the properties at Nos 5-13 in terms of having small plots, I find that the proposed dwelling, being detached and having a different style and design, would require a proportionately larger plot than Nos 5-13 in order to sit comfortably in the immediate area. As a result, I find that the impact of the proposal would reduce the open and spacious aspects of the immediate area and therefore would be significantly harmful to its character and appearance.
7. The appellant points to Paragraph 60 of the National Planning Policy Framework (the Framework) which states that planning decisions should not impose unsubstantiated requirements to conform to certain development forms and styles. Paragraph 60 also states that the local distinctiveness of the area must also be considered. It is on this basis that I have assessed the appeal proposal and reached my decision.
8. Consequently, I conclude that the proposal would have a significant detrimental effect on the character and appearance of the locality. As a result, it would be contrary to Policy ENV1 of the Selby Local Plan 2005 (LP), Policies SP2, SP4 and SP19 of the Selby Core Strategy 2013 (CS) and the relevant guidance within the Framework. Amongst other matters, these policies and guidance seek to ensure that development does not significantly harm the character or appearance of its surrounding area.

Neighbouring occupiers: outlook

9. The Council states that due to the bulk, size and position of the proposal to nearby properties, it would be oppressive and create a solid wall along the length of the adjacent properties where, it is claimed, there is an open outlook. As such, it is argued that the scheme would have a detrimental effect on the outlook of neighbouring occupiers from the rear windows of Nos 5-13.

10. The appeal site consists of an area of land which provides an open outlook to the rear of the properties at Nos 5-13 for their occupiers. Notwithstanding the Council's points, from what I have seen and read, it seems to me that the proposal would particularly affect the outlook of occupiers from the rear of Nos 7 and 9 Stutton Road (Nos 7 and 9).
11. The appellant states that none of the properties at Nos 5-13 have ground floor rear facing windows. Whilst this is the case with regard to the eastern elevations of the rear returns of those properties, I note from the site visit and photographs submitted as part of this appeal that there are ground floor rear windows present on the main rear elevations of the properties and these are likely to serve habitable rooms. Accordingly, I have considered the impact of the proposal on the outlook of neighbouring occupiers with particular regard to these windows.
12. Furthermore, the appellant indicates that the rear yard walls of Nos 5-13 vary in height between 1.8 metres and 2 metres. However, from my observations and the submitted photographs, I note that the rear yard walls, particularly for No 7, appear to be significantly lower than that. As a result, I find that the current outlook from the ground floor rear windows for the occupiers of Nos 7 and 9 is likely to be not as restricted as the appellant suggests.
13. Due to the 'L' shaped configuration of the properties at Nos 5-13, the outlook of the occupiers of those properties from their ground floor rear windows is likely to be limited as a result of the extent of the rear returns. Furthermore, given the position of the proposed dwelling, I find that the impact of the scheme in terms of outlook is likely to principally affect the living conditions of the occupiers of Nos 7 and 9.
14. The appellant states that the elevation wall of the proposed dwelling facing these properties would be 3.2 metres high and it would be about 15 metres from the rear windows. Therefore, it is argued, the effect on outlook would not be particularly significant, oppressive or unacceptable. Notwithstanding this, I note that the overall height of the proposed dwelling to its roof ridge would be approximately 7 metres. Although the roofslope of the scheme would be leaning away from Nos 7 and 9 and their occupiers, I find that the full extent of the proposal would be oppressive and would create a sense of enclosure for the occupiers of Nos 7 and 9. Furthermore, given the proximity of the dwelling to existing properties, I find it likely that the proposed roof would have some, albeit limited, adverse effect on the outlook of occupiers from the first floor rear facing windows of Nos 7 and 9 and potentially from other adjacent properties.
15. I appreciate that the proposed dwelling has been designed in such a way as to mitigate any adverse impacts on residential amenity, including overlooking and loss of privacy. However, such elements do not outweigh the harm I have identified with regard to the living conditions of neighbouring occupiers and their outlook.
16. Consequently, I conclude that the proposed development would have a detrimental impact on the outlook of neighbouring occupiers, particularly those at Nos 7 and 9 Stutton Road. Therefore, it would not comply with Policy ENV1 of the LP, Policy SP19 of the CS and the Framework. Amongst other matters, these policies and guidance seek to ensure that development has no adverse effect on the living conditions of nearby residents, including outlook.

Conclusion

17. Having had regard to the evidence before me, I note that the proposal would provide a dwelling in a sustainable and accessible location where a five year supply of housing land cannot be demonstrated. Furthermore, I appreciate that the design of the proposal has sought to mitigate some of the concerns raised including those relating to privacy and overlooking. However, I conclude that the proposal would result in significant material harm to the character and appearance of the local area and have a detrimental effect on the living conditions of neighbouring residents with regard to outlook. Therefore, I conclude find that the identified benefits of the proposal would not outweigh the harm I have identified.
18. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR