

Appeal Decision

Site visit made on 25 April 2017

by R A Exton Dip URP MRTPI

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

Decision date: 18th May 2017

Appeal Ref: APP/A2525/W/17/3170131

63 Pinchbeck Road, Spalding PE11 1QF

- 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 & Mrs J Kiveris against the decision of South Holland District Council.
 - The application Ref H16-0606-16, dated 20 June 2016, was refused by notice dated 6 February 2017.
 - The development proposed is residential development of one chalet bungalow following the refusal of H16-0263-15.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of nearby residents, with due regard to noise, disturbance and privacy particularly in relation to the occupants of No 63 Pinchbeck Road.

Reasons

3. The proposed access off Pinchbeck Road passes along the northern boundary of the site in close proximity to the corresponding elevation of the host dwelling, No 63 Pinchbeck Road. Within this elevation there are two doors and a number of windows serving rooms within. On my site visit I observed a bed in one of these rooms and minimal furnishings in another. I note that different uses of these rooms have been identified through this, and the previous appeal, and accept these could change over time. In light of this and in the absence of any evidence to the contrary, I must base my assessment on the fact that these rooms are capable of habitation by future occupants of the dwelling.
 4. I agree that as a proposal for one dwelling, and with the provision of a turning area in front of No 63, vehicle movements and manoeuvring are likely to be less than for the previous proposal for two dwellings. However, given the close proximity of the access to the rooms capable of habitation, I consider that the overall effect of vehicle movements associated with the proposed development would be likely to have an unacceptable impact on the living conditions of occupiers of No 63. Even with the provision of a turning area there would still be likely to be an amount of vehicle manoeuvring around the entrance to the site arising from day to day activities of the occupants and service/delivery vehicles. This would create an amount of headlamp glare into habitable rooms as vehicles enter the site and then noise and vibration as they pass close by the rooms closest to the access. I note the appellant's view that there would
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be no unacceptable impact on based on the current use of rooms but have to consider that rooms could be used differently by future occupiers. Consequently, the proposal would be contrary to the aims of Policies SG14 and SG17 of the South Holland Local Plan 2006 which are consistent with the content of the National Planning Policy Framework (the Framework) in avoiding adverse impacts on nearby residents. Due to the much greater separation distances between the access and habitable rooms of neighbouring dwellings I do not consider that occupiers would experience an unacceptable level of harm arising from the same effects.

5. Although cited in the reason for refusal, in its appeal statement, the Council give Policy HS4 limited weight. It considers that in the absence of a 5 year housing supply the presumption in favour of sustainable development set out in paragraph 49 of the Framework carries greater weight. In the absence of any evidence to the contrary I share this view.
6. I note the appellant's suggestions for triple glazing, hard paving to the driveway surface and an acoustic fence. However, I have no evidence to show that these would reduce the effects to an acceptable level and therefore can afford them only limited weight. Furthermore I share my colleague's concern over the impact of an acoustic fence on the living conditions of any occupiers of No 63 and, towards Pinchbeck Road, its potential impact on the character and appearance of the conservation area. I also note the appellants offer to enter into a s106 agreement binding the existing and proposed dwellings together. As no agreement is before me I can give this very limited weight in assessing how it could overcome harm to living conditions.
7. The appellants draw comparison with Sandtone Gardens and other unspecified back garden developments in support of the proposal. I do not consider that the development at Sandtone Gardens is directly comparable to the appeal site. From my observation, vehicles pass across the front elevation of dwellings here, and with a greater degree of separation to habitable rooms. There is no evidence of the other developments. I therefore do not consider that either creates a precedent that outweighs the harm I have identified through assessment of the appeal proposal on its own merits.
8. Whilst I have identified harm to the living conditions of any occupiers of No 63 for the reasons described above, I do not consider that there would be any material harm in terms of privacy. The opportunities for views from vehicles or pedestrians accessing the proposed dwelling would be fleeting and therefore not material. I consider that the separation distance between No 63 and the proposed dwelling is sufficient to avoid any material loss of privacy arising from overlooking. Given that first floor windows in the proposed dwelling facing out of the site would be high level roof lights I do not consider that they would result in any material loss of privacy to any other nearby residents including No 61 Pinchbeck road and No 6 Sandtone Gardens. In arriving at this conclusion I have taken account of the likely loss of vegetation and required raised floor level of the proposed dwelling.

Other matters

9. I recognise the steps the appellants have taken in attempting to overcome the reasons for refusal and dismissal of the previous proposal on the site and the positive officer recommendation for this proposal but these factors do not lead me to a different conclusion. As the proposed access passes through the

Spalding Conservation Area I have had regard to the effect on its character and appearance, and conclude that the scheme as submitted would preserve this. I have taken account of the Council's and interested parties comments regarding the back land nature of the proposal, effect on trees, access for emergency vehicles and noise and dust generated through the construction process. I consider that these are insufficiently material, are private matters or, are covered by other controls and therefore have carried very limited weight in arriving at my conclusion.

Conclusion

10. Whilst I find no harm arising from loss of privacy and note the additional house to be provided, these factors are significantly and demonstrably outweighed by the harm to the living conditions of occupiers of No 63 Pinchbeck Road and the consequent conflict with the development plan. In light of this and taking all other matters raised into account I conclude that the appeal should be dismissed.

Richard Exton

INSPECTOR