The Planning Inspectorate

Appeal Decision

Site visit made on 14 March 2019

by R. Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2019

Appeal Ref: APP/M0933/W/18/3218720
New House, Natland, Kendal LA9 7QQ

- 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 Rupert Tatham against the decision of South Lakeland District Council.
- The application Ref SL/2018/0569, dated 28 June 2018, was refused by notice dated 4 December 2018.
- The development proposed is a new link-detached house.

Decision

1. The appeal is dismissed.

Preliminary matters

2. The description of the proposed development set out in the banner heading above is taken from the application form. However, it is clear from the plans and accompanying details that the proposed development also includes an outbuilding in addition to a dwelling. The Council dealt with the proposal on this basis and so shall I.

3. The policies of the South Lakeland Local Plan 2006 and Alterations (2007) referred to by the Council in its decision notice have been superseded by policies from the South Lakeland Development Management Policies Development Plan Document 2019 (DMPDPD) which was adopted since the Council's decision was made. As the now adopted policies are not materially different to the submission version referred to in the decision notice, neither party has been prejudiced by this change of policy circumstance.

4. Subsequent to the date of the Council's decision, the Government published its revised National Planning Policy Framework (the Framework). Having considered the role and content of revisions, I do not consider it necessary to re-consult the main parties about this change in national policy in relation to this case.

Main issues

5. Having regard to the evidence, I consider the main issues to be the effect of the proposal on: the character and appearance of the area; the living conditions of the occupiers of Compton House, with particular regard to privacy and outlook; and highway safety.

Reasons

Character and appearance

6. The appeal site, which fronts Oxenholme Lane, comprises New House, a semi-detached dwelling, its front, side and rear gardens and an area for the parking of vehicles. The immediate surrounding area is predominantly characterised by attractive houses, either detached or semi-detached, that tend to be generously spaced. The side garden of New House and the area for the parking of vehicles provide an important break in built form between New House and a post office to the immediate west and thus contribute positively to the spatial qualities of the street scene and area. In addition, a low dry-stone wall, reflective of others in the area, runs along most of the frontage of the appeal site and is an attractive feature of the locality. So too is the small front garden of New House, which reflects that of the adjoining property, Green Tree House, and others within the village.

7. I acknowledge that the proposed dwelling would be constructed of materials to reflect those of others in the area and that its eaves and ridge height would match those of New House and Green Tree House. I also recognise that the proposed dwelling would be of less width than Compton House opposite.

8. Nevertheless, it would fill in most of the gap between New House and the post office. This would have a negative terracing effect and would erode considerably the important break in built form along this part of Oxenholme Lane. This would be detrimental to the spatial qualities of the street scene and locality and would appear at considerable odds with the prevailing pattern of development in the area. It would also be of a width considerably greater than New House and would thus appear out of scale and overly dominant in this context. Furthermore, the proposal would remove much of the low dry-stone wall and part of the front garden of New House to enable car parking to the front of the proposed dwelling and New House. The removal of these features would have an urbanising effect on the street scene and area and would diminish the attractive qualities of the village.

9. The Council does not appear to have any concerns about the outbuilding proposed at the rear of the proposed dwelling and New House. It would be of a scale and design that relates well to its domestic context and would not cause harm to the character and appearance of the area.

10. However, for the reasons above, I find the proposed dwelling would cause substantial harm to the character and appearance of the area. It would therefore conflict with Policies CS1.1 and CS8.10 of the South Lakeland Local Development Framework Core Strategy 2010 (CS) and Policies DM1 and DM2 of the DMPDPD, which all require new development to respect local character and distinctiveness. It would also conflict with the aim of the Framework to ensure that developments are sympathetic to local character.

11. The Council's decision notice refers to Policy CS2 of the CS, which sets out the strategy for Kendal as a Principal Service Centre. However, as the appeal site is not within Kendal, Policy CS2 is not applicable in this case. The Council's decision notice also refers to Policy CS8.6 of the CS, which relates to the historic environment. However, I am unaware of any aspects of the historic environment which would be affected by the proposal. As such, this policy also appears to be not applicable to this case.

Living conditions

12. Oxenholme Lane is very narrow and Compton House, immediately opposite the appeal site, is located right on the back edge of the lane. Although set back to align with New House, it was clear from my site visit that the main living area of the proposed dwelling would directly overlook the living room of Compton House. Whilst I do not have the internal layout of Compton House before me, it is likely that the front windows at first floor level serve bedrooms which would equally be overlooked by those of the proposed dwelling. The proposal would thus result in a harmful loss of privacy for the occupiers of Compton House.

13. Further, given the narrow lane and the scale of the proposed dwelling directly opposite Compton House, it would have an overbearing impact for the occupiers of this property and would thus have an adverse effect on their outlook.

14. The proposed outbuilding would be around 2.4m to its eaves with a traditional pitched roof. It would be ancillary to the residential use and I am satisfied that its scale and siting would not cause harm to the living conditions of neighbours in respect of either privacy or outlook.

15. In light of my findings above, I conclude that the proposed dwelling would cause substantial harm to the living conditions of the occupiers of Compton House. The proposal would thus conflict with Policy DM1 of the DMPDPD in-so-far as it requires development to ensure acceptable levels of amenity for neighbouring occupants. It would also conflict with the aim of the Framework to ensure that developments create places with a high standard of amenity for existing users.

Highway safety

16. Part of the appeal site currently forms an area of off-street car parking for New House. The proposals are to provide a single parking space to the front of New House and three spaces to the front of the proposed dwelling. Visibility to the site is fairly restricted as you turn the corner from Natland Road into Oxenholme Lane, particularly due to its narrow width and parked cars outside the Post Office. Despite the comments of the Highway Authority that this section of Oxenholme Lane is 40mph, as seen on my site visit, the effect of the physical constraints is that cars move slowly with caution. For this reason, although cars will need to manoeuvre in Oxenholme Lane to gain access to the parking spaces, I am not persuaded that this would result in an adverse impact on highway safety. I therefore find no conflict with Policy CS10.2 of the CS or Policy DM9 of the DMPDPD where they require proposals to have safe access and an acceptable impact on the road network.

Conclusion

17. Whilst I have not found harm to highway safety, I have found harm in respect of the character and appearance of the area and neighbour living conditions. Such harm would be substantial and thus, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

R. Jones INSPECTOR