

Appeal Decision

Site visit made on 8 June 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 01 July 2016

Appeal Ref: APP/L2630/W/16/3146317

37 Stoke Road, Poringland, Norfolk NR14 7JN

- 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 Allan Wright against the decision of South Norfolk Council.
 - The application Ref 2015/2557, dated 10 November 2015, was refused by notice dated 6 January 2016.
 - The development proposed is sub-division of garden and erection of single storey dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - a. The character and appearance of the area;
 - b. The living conditions of occupants of neighbouring properties; and
 - c. The proper protection of the oak tree on the west boundary of the appeal site including the effect of proposed mitigation works.

Reasons

Character and appearance

3. The appeal site would be formed by the proposed sub-division of the rear garden of 37 Stoke Road, a two-storey house in an area where there is a mix of dwelling styles. The immediate vicinity of the appeal site typically comprises detached or terraced houses with generous gardens to the rear. The overwhelming majority of these properties have their frontages on Stoke Road or surrounding roads. This linear form of development is a positive and distinctive characteristic of the area albeit that there may be exceptions further afield.
 4. No 49 which is reasonably close to the appeal site, is a form of backland development, however this is a larger site than No 37 and has a wider access. It is not therefore considered to form a compelling reason for the new dwelling which would be incongruously sited in relation to its more immediate neighbours.
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5. I accept that a great deal of thought has gone into the design of the dwelling and that has sought to maximise the internal space. However the proposal would result in a form of backland development that would not be in keeping with the pattern of development in the locality. The harm caused would be substantial and contrary to Policies 3.5 and 3.8 of the South Norfolk Local Plan: *Development Management Policies Document* 2015 (LP) which seek to ensure that additional dwellings in sub-divided plots respect the local distinctiveness of surrounding development and generally enhance the character or appearance of the locality. The proposal would also be contrary to Policy 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (adopted 2011) (JCS) in particular in its aim to respect local distinctiveness.
6. These policies are in line with the National Planning Policy Framework (Framework), especially Section 7 which although encouraging optimisation of the potential of sites to accommodate development, is concerned to ensure that new development responds to local character and reflects the identity of local surroundings.

Living Conditions

7. Although the new dwelling would be one and a half storeys it would be clearly seen above common boundary enclosures from surrounding dwellings. Its overall ridge height, prominent pitched gable roofs, and location would compromise the outlook from adjoining properties, including for present and future occupants of the host dwelling, resulting in a sense of overbearing. There is no technical appraisal of the effect of the proposal on loss of daylight, however I am satisfied from what I have seen and read that the relationship between the new elevations and adjoining boundaries would be likely to cause overshadowing of significant parts of neighbouring rear gardens. Overall the new development would be so oppressive to these occupiers as to harm significantly the use of their land.
8. Furthermore the new access would result in an increased use of the driveway between Nos 37 and 39 by motor vehicles. The unsatisfactory nature of such a tandem development as is proposed here is highlighted by the unavoidable passage of vehicles so close to the private amenity space of the host property. Taking the figures produced by the appellant that are said to derive from the highway authority's estimate of traffic movements, the additional noise and disturbance caused by up to six daily movements would have a harmful effect on the use of both those properties, and would be exacerbated in the case of No 39 which is at a lower level than No 37.
9. I conclude that the position, mass and scale of the new dwelling would be an unacceptably dominant addition to the appeal site and result in over shadowing of large areas of the rear gardens of adjacent properties, contrary to LP Policies DM3.13 and DM3.5. The increased use of the new driveway would add unacceptably to the noise and disturbance likely to be experienced by the occupants of Nos 37 and 39 Stoke Road, also contrary to LP Policies DM3.13 and DM3.5. These policies seek for new development, including new dwellings on sub-divided land, a high quality design and quality of life for all existing and future occupiers, with reference to, among other matters, overshadowing, overbearing impact and incompatible neighbouring uses in terms of noise.

Oak Tree and the effect of mitigation works

10. There is an oak tree on the western boundary of the appeal site which is in good condition, and contributes positively to views from within and through several surrounding properties. A large part of the root protection area (RPA) coincides with footprints of the sheds to be demolished, the proposed driveway and a small part of the new dwelling.
11. Since the refusal notice was issued an arboricultural report has been submitted with this appeal. That report provides a satisfactory methodology to protect the tree and allay concerns regarding no-dig construction. That could be secured by way of condition together with appropriate routing of service trenches. The report sets out that the surface design of the access over the RPA should merge with the level of other sections of the road. The diagram of a typical no-dig construction shows a 100mm deep protection system on which sand bedding and block paving or other final surface would be placed. This clearly implies the possibility of raising the land level albeit to a limited extent.
12. From the evidence before me and what I saw on site, the area of new access over the RPA would be small compared to its overall length and would be some two thirds of the way down the rear garden of No 37. A rise in ground level should be confined to the lower part of the garden and any change in ground level is likely to be modest and part of the final design as advised by structural engineers and approved by the Council. It would not therefore add significant harm to the living conditions of adjoining neighbours or be at odds with JCS Policy 2 which seeks among other matters to protect landscape character and to avoid harmful impacts on key environmental assets.

Other Matters

13. Concern was expressed that due to the change in level down from the appeal site to No 39, damage may be caused to property within No 39 and/or No 41 if the new driveway would not properly support the weight of vehicles. As I understand the objection it is not directly related to the proposed mitigation works to protect the oak tree which, subject to the appropriate safeguards imposed by condition, I am in any event satisfied could be achieved without additional harmful effects. The damage and consequential loss that it is suggested might occur are matters that are outside the scope of this appeal to be resolved as necessary under private property law.
14. Whether the proposal constitutes sustainable development involves consideration of three inter-connected elements as set out in the Framework: environmental, economic and social. A single additional housing unit would only offer limited social and economic benefits. Whilst the general area within which the appeal site lies is well located in terms of accessibility to goods and services, the appeal site itself is in a highly unsustainable location from an environmental point of view, due to its failure to respect the prevailing pattern of linear development along the main road frontage. I conclude that in all the proposal would not be sustainable development.
15. Despite the Framework's strong encouragement to boost the supply of housing and the undisputed lack of a five year supply of deliverable housing land in the Council's area, the policies on which the Council refused the application are not relevant policies for the supply of housing. Therefore there is no reason to

treat them as out of date as might otherwise be the case according to Paragraph 49 of the Framework.

Conclusion

16. For the above reasons and having regard to all other matters raised the appeal is dismissed.

Grahame Kean

INSPECTOR