



Appeal Decision

Site visit made on 1 July 2019

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2019

Appeal Ref: APP/P1133/W/19/3226216

1 Lyndhurst Avenue, Kingskerswell, Newton Abbot TQ12 5AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Alison Davey against the decision of Teignbridge District Council.
 - The application Ref 19/00081/OUT, dated 14 January 2019, was refused by notice dated 8 March 2019.
 - The development proposed is described on the application form as two detached dwellings in part of the garden of 1 Lyndhurst Avenue, Kingskerswell.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with some matters reserved. The appellant in their statement of case submit that the positioning of the two dwellings is indicative only, however the layout and access of the development are ticked on the application form as matters for consideration and I have not been provided with any evidence from either party that these circumstances changed during the processing of the application. I have therefore judged the appeal on that basis and considered the submitted plans as indicative in all regards except access and layout.

Main Issues

3. The main issues in this case are the effect of the development on:
 - the character and appearance of the area, with particular regard to the siting of a dwelling house to the north of No. 1 Lyndhurst Avenue, the siting of a garage in relation to nearby trees and hedgerows, and the provision of a drive across the grass verge leading from Newton Road; and
 - the living conditions of neighbouring occupiers with particular regard to an overbearing effect, sense of enclosure, loss of light and overlooking resulting from the siting of a dwelling house to the north of No. 1 Lyndhurst Avenue.

Reasons

Character and appearance

4. The appeal site is located within the domestic garden of No. 1 Lyndhurst Avenue which is situated close to the road junction with the adjacent Newton Road, a busy highway which leads through Kingskerswell. Lyndhurst Avenue

risers steeply up from Newton Road, unlike the majority of properties along Lyndhurst Avenue, No. 1 is two storey, and is of a different style to the prevalent single storey units which are situated on either side of the road and step up with the rising topography.

5. No. 1 also has a larger garden to the neighbouring units and as the property is set back towards the south-eastern corner of the appeal site, there is a spacious area of garden wrapping around from the west to the north. The appeal proposal seeks to accommodate two detached dwelling houses and associated garden areas to the west and to the north of No. 1.
6. In their reason for refusal, the Council have raised specific concerns with the siting of the dwelling to the north of No. 1 on the character and appearance of the area, contending that this component of the development would be at odds with the pattern of development in the locality and overdevelopment of the site.
7. From my visit to the site I noted the prevailing linear character to the street scene along Lyndhurst Avenue and a consistent spatial arrangement to each property. From Newton Road, the pattern of built development is one that steps some distance back from the highway to the north of No. 1, whereby the general feeling become more spacious than the building line to the south.
8. The appeal site is enclosed by existing boundary coverage, but nonetheless the proposed development would be visible from various vantage points along Newton Road and Lyndhurst Avenue. To my mind, the provision of two further dwelling houses within the grounds of the appeal site would result in a predominance of built form that is uncharacteristic to the spatial arrangements of the surrounding area. The development would appear incongruous as a consequence, in particular this would be the case with the siting of a building of dwelling house scale to the north of No. 1, which would be inconsistent with the building line along Lyndhurst Avenue and when viewed from Newton Road would infill the gap between the dwelling houses along Lyndhurst Avenue and Lyndhurst Close, appearing visually cramped and forced into the site.
9. The appellant has drawn my attention to a number of other examples of proposals recently approved for housing in the surrounding area which they contend establishes a precedent for the development. However, I do not have the full facts of these cases before me, and nonetheless there are differences informing the relevant judgements that are based on the specific circumstances of an individual case. As a result, I have afforded these examples limited weight in my considerations.
10. Further to the above, the garage to the proposed western dwelling house would be located directly against a section of the western boundary to the site and would be likely, due to this proximity to the boundary, to result in the removal of some of the established trees and hedgerows that provide screening to the south-western section of the site. I am of the view that the loss of some of the trees and hedgerow on this western boundary would add additional harm to the character and appearance of the area in addition to the matters I have identified above.
11. The Council have also raised concerns about the provision of a driveway across the grass verge situated between the appeal site and Newton Road. The verge runs from the west of the appeal site to the north, and from my visit was

unbroken for as far as I could see in this direction. I note that there is an existing vehicular width gateway serving the appeal site which aligns with a section of dropped kerb leading onto Newton Road. However, the access does not appear to have been in regular use for some time and at present there is no evidence of hard surfacing connecting the gateway to the highway, which would be a likely necessity for residential development to proceed. As a consequence, the effects of this component of the development on the character and appearance of the area would increase the harm that I have already identified above.

12. To conclude on this main issue, the appeal development by virtue of its layout would result in an incongruous development at odds with the spatial arrangements and building lines found in the surrounding area. Further, the development would also result in the loss of trees and a hedgerow and would introduce hard surfacing across a grass verge that at present positively contribute to the character and appearance of the area.
13. The development would therefore conflict with policies S1A, S1, S2 and EN2A of the Teignbridge Local Plan 2013-2033 (2014) (the TLP). These policies, amongst other matters, collectively seek that development maintains or enhances the character, appearance and historic interest of affected landscapes, settlements, street scenes, buildings, open spaces, trees and other environmental assets. The development would also be at odds with the design and environmental aims of the Framework.

Living conditions

14. The proposed dwelling to the north of No. 1 Lyndhurst Avenue would be sited close to the northern rear elevation of No. 1 and towards the southern boundary of the neighbouring property No. 3 Lyndhurst Avenue. Whilst scale and appearance are matters that are not subject to consideration at this stage, nonetheless the sectional plans submitted with the application suggest a two storey design. The layout of the development on the proposed ground floor plan also suggests a two storey scale to the development.
15. The appellant's statement of case also refers to a two storey scale of development and I consider that it is likely, from all of the information before me and the conclusions from my site visit, that a two storey scale of the development would be proposed at a subsequent stage.
16. The appellant has referred to the submitted sectional plans which highlights a drop in topography between the appeal site and No. 3 Lyndhurst Avenue and as a result of this level change and existing boundary demarcation, there would be limited if any effect on the living conditions of No. 3. Whilst I agree with the appellant that ground levels do drop down towards the appeal site from the neighbouring garden, and that existing ground levels could be lowered, nonetheless, a two storey dwelling house would be at a much greater scale than the existing boundary separation between No. 1 and No. 3.
17. Development at this scale and in such a proximity to the neighbouring boundary would result in loss of light and an oppressive enclosing effect onto the rear garden space and the outlook from the northern elevation of No. 3 Lyndhurst Avenue. The development would have a similar effect on the proposed rear garden space to No. 1 and the rear elevation to this property. Whilst I note that the appellant suggests there would be no principal windows facing towards the direction of the proposed dwelling house to the north, this is

not a detail before me and be that as it may, it would not address the oppressive harm that would arise from the development to the private garden space of No. 1.

18. Whilst it may be possible to accommodate a single storey dwelling house on the northern section of the appeal site that would not unduly prejudice the living conditions of neighbouring properties. Bearing in mind that the layout of the development is a matter for consideration at this stage, limiting the development to a single storey scale via condition would in turn limit the internal accommodation of the development to a single level within the identified layout on the submitted plans. Such a limitation would not, in my mind, be conclusive to providing a good standard of living environment for future occupiers of the development. Therefore, the concerns I have with regard to the effects of the development on the living conditions of neighbouring occupiers could not be adequately addressed through a condition limiting the scale of the development.
19. Matters such as overlooking and loss of privacy could potentially be addressed through the configuration of the internal space and the use of obscure glazing conditions, these would have been matters that could be addressed at a subsequent stage if I would have been minded to approve the development.
20. I also find that with regard to the proposed dwelling house to the west of No. 1 that this would be positioned a suitable distance away from No. 1 and other neighbouring properties so as to ensure that there would be no significant adverse effect on the living conditions of these properties resulting from this component of the development.
21. However, for the reasons I have outlined, the siting of the dwelling house to north of No. 1 Lyndhurst Avenue would result in adverse effect on the living conditions to No. 1 and No. 3 Lyndhurst Avenue. This would be as a result of loss of light and an oppressive enclosing effect onto the rear gardens of both of these properties and further with regard to no.3, to the outlook from its rear northern elevation.
22. I therefore conclude that the appeal development would conflict with policies S1A, S1 and S2 of the TLP which amongst other matters, requires development to perform well against the criteria of its impact on the residential amenity of existing and committed dwellings, particularly privacy, security, outlook and natural light; and the impact from existing or committed developments on the health, safety or amenity of occupants or users of the proposed development. The development would also be at odds with the overarching design principles of the Framework.

Planning Balance

23. I have found that the development would conflict with the development plan in respect of its effect on the character and appearance of the area and the living conditions of existing occupiers. Whilst the development would result in social and economic benefits associated with the provision of two dwelling houses, these benefits do not outweigh the harm that I have identified. Therefore, the proposal would conflict with the development plan when taken as a whole and there are no material considerations that would justify a decision other than in accordance with the development plan.

Conclusion

24. Taking all matters into consideration, I conclude that the appeal should be dismissed.

J Evans

INSPECTOR