



Appeal Decision

Site visit made on 28 May 2019

by C Beeby BA (Hons)

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019

Appeal Ref: APP/F2605/W/19/3221797

2A Theatre Street, Dereham NR19 2EW

- 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 R O' Neil against the decision of Breckland District Council.
 - The application Ref 3PL/2018/1532/F, dated 10 December 2018, was refused by notice dated 18 January 2019.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal includes policies from the emerging Breckland Local Plan ("the eLP"). Whilst the eLP is at an advanced stage, it has not yet been formally adopted by the Council. Therefore in accordance with paragraph 48 of the National Planning Policy Framework ("the Framework"), whilst I have had regard to those policies I have not attached full weight to them in my consideration of this appeal.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on the living conditions of the occupiers of the proposed dwelling and No 2A Theatre Street with regard to amenity space provision.

Reasons

Character and appearance

4. The appeal site is former yard or garden land adjacent to the host dwelling. The space is enclosed by garden fencing or the walls to surrounding buildings. A lengthy wall which forms the rear of a building used by a row of businesses forms one edge of the site.
5. Theatre Street at this point is mainly residential, with a relatively dense pattern of development. However, some gaps between buildings allow for views to garden land and resulting visual relief from built form.

6. The appeal site forms one such gap, and provides a level of spaciousness and views of garden vegetation which contribute positively to the appearance of the area, and to the prevention of any significant cramped impression.
7. The appeal proposes the construction of a detached two-storey dwelling which would almost adjoin the wall which forms the edge of the site. The remainder of the dwelling would occupy the majority of the breadth of the site, with only a narrow gap left between the new and existing dwellings. The gap would be particularly narrow if a two-storey side extension, which the Council states has been permitted at the existing dwelling, were to be constructed.
8. The scale and position of the new dwelling would consequently result in a view of significant built form from the highway, which would appear almost uninterrupted due to the close proximity of the new building to surrounding development. The resulting cramped impression would erode the visual relief from built form and the spaciousness which the appeal site currently contributes to the area's appearance.
9. The set back of the new dwelling within the site would provide a modest level of spaciousness to the front of the dwelling which would be in keeping with the set back of the more modern development along Theatre Street. However, this would not overcome the impression of cramped built form which would result from the close proximity and significant scale of the new dwelling and surrounding development.
10. Thus, the proposal would cause moderate harm to the character and appearance of the area. It consequently conflicts with Policy DC16 of the Adopted Core Strategy and Development Control Policies Development Plan Document (adopted December 2009) ("the CS"), which states that all design proposals must preserve or enhance the existing character of an area. Further conflict exists with the design principles of the Framework.

Living conditions

11. The appeal scheme allows for a limited area of rear garden space at the new dwelling. As a three bedroomed property, the dwelling is likely to attract a family, and there is consequently a reasonable likelihood of children occupying the property.
12. External play space for any child occupier of the property would be very limited, and consequently insufficient, even if the likely partial use of the rear area for bin storage, a shed and/or the drying of washing is discounted. Furthermore, the significant height and length of surrounding walls would give the rear space an enclosed quality which would be likely to feel oppressive given its limited size.
13. The plans suggest that occupiers of the new dwelling would also have the use of the entirety of the area of space in front of it. Whilst this provides a limited area of additional amenity space, the front area would be likely to lack the privacy necessary for garden use. Furthermore, as the property's only form of access, any area of grass to the front would be likely to be limited by the provision of a surfaced path to the front door, reducing the space available for garden use by a significant degree. As a result of the above factors, the proposal would fail to provide acceptable living conditions at the new dwelling with regard to the provision of amenity space.

14. The plans do not set out the distribution of rear amenity space between the existing dwelling ("No 2A") and its adjoining neighbour. The Council submits that No 2A would be left with no amenity space, and the appellant contends that sufficient amenity space for bin storage and a washing line would remain at the dwelling.
15. No 2A may not be of a size which would be likely to attract a family, with external play space consequently not a significant consideration. However, even if the remaining amenity space at No 2A were of the maximum size allowed for by the plans, this would still provide only a very limited area. External space for activities such as sitting out and the drying of washing is a necessary component in the provision of acceptable living conditions, and the proposal does not confirm that it allows for a sufficient area of such space at No 2A. Thus, it would fail to provide acceptable living conditions at No 2A with regard to the provision of amenity space.
16. The appellant contends that areas of open space or play areas lie within walking distance of the site. However, due to the inconvenience and additional time taken to reach such areas, they do not provide sufficient mitigation for the failure to provide adequate adjacent amenity space for occupiers of the new and existing dwellings to undertake such usual regular activities as active play, sitting out or drying washing. As a result, the availability of such areas does not overcome the harm to living conditions which I have identified above.
17. My attention has not been drawn to any local properties of a similar size with a comparably sized garden area, and even if this were the case it is unlikely that these would provide examples which should inevitably be followed, regardless of my finding that harm would result from the effect of the appeal scheme on living conditions.
18. The insufficient amenity space proposed consequently results in unacceptable living conditions for future occupiers of the new and existing dwellings. Thus, the proposal conflicts with Policy DC1 of the CS, which sets out that development will not be permitted where there are unacceptable effects on the residential amenity of neighbouring occupants, or future occupants of the development site. Additional conflict exists with the Framework, which requires development proposals to promote a high standard of amenity for existing and future users.

Other Matters

19. I have had regard to other matters raised, including concerns about the scheme's effect on privacy, light and noise. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Planning Balance and Conclusion

20. The appellant contends that the Council is unable to demonstrate a 5 year Housing Land Supply ("5Y HLS"); the Council does not contest this. In such cases, it is necessary to grant permission unless, amongst other things, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole.
21. There would be a small benefit from the provision of the additional dwelling that would make a positive, albeit limited, contribution to the housing supply.

Modest economic benefits would also arise from the construction and occupation of the new house. The site is in a location with reasonable access to a range of services and facilities.

22. However, there would be moderate harm to the character and appearance of the area and the proposal would result in unacceptable living conditions for future occupiers of the new and existing dwellings. Even if I were to conclude that there is a shortfall in the 5Y HLS on the maximum possible scale, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Therefore the proposal would not be a sustainable form of development when considered against the Framework taken as a whole.
23. I have applied the “tilted balance” and have found that the proposal’s benefits are outweighed by the identified harm. As such, the Framework, as a material consideration, indicates that the appeal should be dismissed. There are no other material considerations to suggest that the proposal should be determined otherwise than in accordance with the development plan, with which I have already found conflict.
24. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR