
Appeal Decision

Site visit made on 11 December 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/E2530/W/19/3237021

The Bungalow, Church Street, Foston NG32 2LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms S Hall against South Kesteven District Council.
 - The application Ref S19/1252, is dated 9 July 2019.
 - The development proposed is described as 'proposed 2no. 2 storey, 4 bed detached dwellings with associated parking and landscaping.'
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Ms S Hall against South Kesteven District Council. This application is the subject of a separate decision.

Main Issues

3. There are four main issues. These are the effects of the proposed development on a) the character and appearance of the area; b) the living conditions of existing and future occupiers; c) ecology and biodiversity; and d) whether the proposed development would be acceptable in terms of flood risk and drainage.

Reasons

Character and Appearance

4. The appeal site is the rear garden of a detached bungalow which itself is located to the front of the plot as it abuts the back edge of the street. The site is open and undeveloped, overgrown in places and has a number of mature trees and hedges to its boundaries. The area around the appeal site is predominantly rural and land use mainly agricultural. The dwelling is at the northern edge of the settlement which exists as a cluster of dwelling types and sizes arranged informally around a series of narrow roads.
5. Whilst there are examples of back land type development in plots that front Church Street, the undeveloped nature of the appeal site means it relates clearly to the more open rurality of the fields to its north and west. The insertion of built form and associated access and curtilages therefore would clearly jar with its surroundings. In addition, the erection of two, two storey detached dwellings in a line abreast layout would introduce a structured

formality to the arrangement of buildings which would not sit squarely with the established character. I acknowledge that, through the use of certain design cues and materials a suitable result could be achieved that would reflect the same used locally but this would not make up for the somewhat regimented style of the buildings' arrangement or the introduction of built form of a not insignificant scale to a predominantly rural area.

6. With this in mind, the appeal scheme would cause harm to the character and appearance of the area and thus not accord with Policy EN1 of the CS¹ or Policies FNP01, FNP09 or FNP10 of the Foston Neighbourhood Development Plan 2016 (FNDP). Together, along with section 12 of the Framework² and amongst other things, these policies seek to ensure that new development is of a high quality and contextually appropriate design and appearance that is appropriate for the character and scale of an area and the character of the district is protected and enhanced. They also set out that new housing should be sympathetic to the existing form, scale and character of its location and in accordance with other design relevant Neighbourhood Plan policies.
7. I note the Council's reference to Policy FNP05 of the FNDP. Whilst not made explicit, I understand that this is in relation to the potential loss of boundary trees and hedgerows to the site and how it would consequently be 'opened up' to views. The appellant has confirmed in their submission that no such removal would take place. Whilst this may therefore provide some screening for the proposed development, it would not be obscured from the public realm due to its location and height. I am equally not convinced by the argument that such obscurity would in any event make the scheme acceptable in character and appearance terms given the nature of the harms that I have identified. Notwithstanding these factors, the retention of the trees and hedges to the site and if relevant the use of conditions would ensure that there would be appropriate measures to maintain locally characteristic landscape features. I would not therefore find conflict with FNP05.

Living Conditions

8. There are a number of strands to the Council's concerns in respect of this main issue and they revolve around future intentions with regards to boundary landscaping. Trees in particular. As I have set out above, it appears to be the appellant's intention to retain boundary trees and other landscape features and such could be the subject of conditions imposed on any planning permission should their removal give rise to any planning harm. In terms of how said trees may affect the quality of the rear garden space to proposed dwelling 1 they do not strike me as being so dominating of the space that future occupiers would place pressure on their removal, particularly since they provide privacy to the space and any future occupiers would be well aware of both their existence and any controls placed upon their management going forwards.
9. That said, and notwithstanding the future of the trees in question, I remain unconvinced that the appeal scheme would not be harmful to the living conditions of the occupiers of The Bungalow. There would be two, two storey buildings in relatively close proximity to the far end of its garden which would be significantly truncated. Whilst the distance of the front elevation of the dwellings from The Bungalow would go some way to reducing overlooking of

¹ South Kesteven District Council Local Development Framework Core Strategy 2010

² The National Planning Policy Framework 2019

the rear garden space, there would be a strong sense of being overlooked even with existing trees in place. The experience of the new rear garden would be of looming taller buildings over the noticeably reduced effect of a more modest bungalow.

10. Church Street is a cul de sac at the point where The Bungalow abuts it and whilst there is a through route for pedestrians, vehicular movements would be very low and infrequent, only accessing dwellings opposite. The creation of the new access for the new dwellings would result in a private driveway along the entirety of one side and all of the rear elevation of what is currently a secluded and very private garden space. The operation of the dwellings and the access would further reduce the quality of the garden space for occupiers not only in terms of impinging on its privacy, but effectively surrounding it with activity which would bring about additional, and in my view unacceptable, levels of disturbance.
11. In the case of The White Cottage, located to the south of the appeal site, I feel that the size of its garden and the oblique angle of the new dwellings relative thereto would be mitigating factors to any perceived loss of privacy. As would controls that could reasonably be imposed on boundary landscaping and the distance the new dwellings would overall be from the rear elevation of the dwelling.
12. This would not however make up for how harmful the appeal scheme would be, in the terms I have explained, to the living conditions of the occupiers of The Bungalow. Such that, in regard to this main issue, there would be conflict with Policy EN1 of the CS and paragraph 127 of the Framework. Together, and amongst other things, these policies seek to ensure that new development will be assessed in relation to visual intrusion and noise, as well as creating places with a high standard of amenity for existing and future users.

Ecology

13. The rear garden of the host dwelling is part overgrown but some management has taken place. There are a number of mature trees and hedgerows of varying densities. That said, there do not seem to be any features of such significance in habitat terms that would elevate the site to a greater degree of importance than any other private residential garden. Further, I have not seen any evidence to suggest in any great detail, from a statutory consultee or otherwise, that the appeal site would support protected or important species.
14. Given the appeal site's semi rural location however and taking a precautionary approach as would seem eminently reasonable in the above circumstances, I would consider it appropriate to require, should planning permission be granted, any developer to undertake a level of surveying to the site to explore whether any habitat may be adversely affected. I do not therefore find that it would be appropriate to withhold the granting of planning permission for ecological reasons and therefore the appeal scheme has the capability to accord with Policy EN1 of the CS and FNP05 of the FNDP. Along with section 15 of the Framework, these policies seek to ensure that, amongst other things, development proposals should have appropriate regard to nature conservation matters and be assessed in relation to biodiversity and ecological networks.

Flood Risk and Drainage

15. The appeal site does not appear to be in a designated flood zone. The Council however remain concerned that insufficient information has been submitted to demonstrate that the proposed development could operate sufficiently in terms of how it would be drained given the potential removal of trees and hedges and the addition of hardstanding. The evidence in terms of drainage issues in and around the appeal site has been presented by local residents and whilst anecdotal it does seem to me that the sloping nature of the appeal site coupled with the introduction of more hard built form and surfacing in an otherwise permeable site would have the potential to exacerbate any existing problems.
16. Even so, I am not persuaded that such a matter should be sufficient to withhold planning permission. As a small site with limited development in the grand scheme as well as there being a number of methods available to manage and dispose of surface water run off such as the retention of planted areas, grassed surfaces and permeable driveway materials, it would be sufficient to require, prior to any development taking place, a scheme to demonstrate how surface water would be managed and disposed of. Such that it would render the proposed development acceptable under Policy EN2 of the CS and section 14 of the Framework which require, amongst other things, development to be directed to areas with the least probability of flooding and ensure that it is protected adequately from the effects of flooding.

Other Matters

17. The appellant alludes to a planning permission having been granted for the erection of a detached dwelling in the rear garden of The White Cottage. I have not however been passed exact details thereof, the reasons for which planning permission was granted or the particular circumstances of the case. Such that I cannot consider it sufficiently similar to the scheme before me. My conclusions therefore remain.
18. The CS is of some age now and pre dates both the original and current iterations of the Framework. That said, neither this nor the emerging new local plan result in its relevant policies being out of date in the particular circumstances of this case. The Council's supply of housing sites does not appear to be a contentious matter and the policies I have cited in my decision have aims that broadly align with the objectives of the current Framework. I am not therefore taken to considering the appeal scheme in the context of paragraph 11 of the Framework.
19. The principle of new residential development in Foston does not appear, on the strength of what I have seen, to be unacceptable. There are also other areas in which the proposed development would be acceptable. These factors would nonetheless be neutral in any balance of considerations, accordingly being incapable of weighing against harms that I have found.

Conclusion

20. I have not found harm arising from the third and fourth main issue. This would not however be sufficient to reduce that which I have found in respect of the first and second nor the subsequent conflict there would be with the development plan and the Framework. It is for these reasons, whilst

considering other matters that have been raised by local residents, that the appeal is dismissed and planning permission accordingly refused.

John Morrison

INSPECTOR