
Appeal Decision

Site visit made on 3 December 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 28 January 2020

Appeal Ref: APP/G2815/W/19/3236437

Rockleigh, 3 Winding Way, Thrapston NN14 4NW

- 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 Ms Renee Watters against the decision of East Northants District Council.
 - The application Ref 19/00840/FUL, dated 10 May 2019, was refused by notice dated 15 July 2019.
 - The development proposed is erection of a new three bedroom dwelling with access road and parking to rear.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new three bedroom dwelling with access road and parking to rear at Rockleigh, 3 Winding Way, Thrapston NN14 4NW in accordance with the terms of the application, Ref 19/00840/FUL, dated 10 May 2019, subject to the conditions set out in the attached Schedule of Conditions.

Procedural Matters

2. The Council's notice of decision cited three reasons for refusal, the third of which related to the appellant's failure to make a commuted payment for mitigation in connection with the Upper Nene Valley Gravel Pits Special Protection Area. The Council have confirmed that the appellant made a payment in this regard and that as a consequence the Council no longer wished to defend the third of the three refusal reasons. I return to this matter in the 'Other Matters' section below and the main issues are framed in the context of the Council's first and second reasons for refusal.

Main Issues

3. The main issues are;
 - The effects of the proposed development on the living conditions of occupiers of 3c and 3d Winding Way, with particular regard to light and outlook; and
 - Highway and pedestrian safety.

Reasons

Living conditions

4. The proposed dwelling would be located on an extensive side garden area associated with 3 Winding Way. To the north of the appeal site lie a pair of

semi-detached bungalows¹, of which one has a long east-facing rear garden and the other a smaller west-facing garden fronting on to Winding Way. These properties are served by windows on all four elevations, including the south-facing elevation which faces towards the appeal site.

5. The main parties agree that the proposed dwelling would be situated in the region of 6.6 metres from the south-facing elevation of Nos. 3c and 3d, within which there are a mix of windows and doors. There would inevitably be a degree of additional overshadowing of these windows arising at certain times of the day given the proposal's location due south of Nos 3c and 3d. However, the dwelling would be orientated in such a manner that the roof structure would be a recessive feature, particularly in comparison with the existing gable elevation of No. 3. Taken together with the gap between the proposed and existing, any additional overshadowing over-and-above that caused by the existing house, would be limited.
6. More persuasively however, there is agreement between the main parties that these windows serve kitchens and bathrooms at Nos 3c and 3d, rather than habitable rooms. Moreover, a substantial evergreen hedge runs between the properties and would in all likelihood be a more dominating feature than the proposed dwelling would be. There would nevertheless remain a reasonable degree of separation between these windows and the flank elevation of the proposed dwelling, whilst the remainder of the south-facing aspect of Nos. 3c and 3d would remain open beyond the front and rear of the proposed dwelling.
7. So too, the north and east facing aspects of No. 3d and the north and west facing aspects of No. 3c, which are reasonably open over garden areas, adjoining land or Winding Way itself. These properties would therefore retain generous and open aspects from three of the four elevations. Whilst closer to their south-facing elevation than the existing dwelling at No. 3, the proposed dwelling would retain a reasonable gap between the respective elevations, whilst its recessive roof orientation would reduce the immediate extent of the proposal's north facing flank.
8. For these reasons, I am satisfied that the proposed dwelling would not result in an unacceptable impact on the living conditions of occupiers of Nos 3c or 3d by reason of loss of light or outlook. There would thus be no conflict with the aims and provisions of North Northamptonshire Joint Core Strategy (NNJCS) policy 8(e)(i) which seeks to ensure quality of life as one of the core place shaping principles.
9. Inter-visibility between properties is, to a large extent, inevitable within a urban residential setting such as Winding Way and surrounding streets. The outlook from the front and rear elevations of the proposed dwelling would be no different to that which commonly exists between existing dwellings adjoining and adjacent to the site. The Council did not object to the proposal on these grounds and I have not been presented with any reason to reach a different conclusion in this respect. Whilst there are windows shown on both side elevations of the proposed dwelling, a suitably worded condition would ensure that no further windows are added to the north facing elevation.

¹ Nos. 3c and 3d

Highway and pedestrian safety

10. Winding Way is a private road, which I am advised is not constructed to adoptable highway standards, and which already provides vehicular access to a number of other dwellings. The Council acknowledge that intensification of use of the access along Winding Way as a consequence of the proposal would be minimal.
11. I agree that Winding Way is, in places at least, somewhat true to its name and is 'winding' for a short length as it makes its way between the flank elevations and yard walls of frontage properties on Huntingdon Road. However, although visibility is restricted around these two bends, Winding Way opens out dramatically once past these restrictions and, although the metalled surface remains single-track in width, visibility along its remaining length is good with clearly identifiable areas for vehicles to pass, should such circumstances arise. However, in the context of the limited number of houses already served by Winding Way and the 'minimal' level of intensification likely to result from the proposal, such circumstances would seem to me to be rather limited in their likelihood of occurring.
12. Neither party has provided detailed trip generation figures for the proposed dwellings, nor have I been provided with any information regarding existing levels of vehicle movements along the lane's length. There are already more than five dwellings which take access from Winding Way however, and whilst the Council's concerns, informed by the local highway authority's objections, centre around the implications of infrastructure provision, waste collection and emergency access, I am not persuaded that the proposal would prejudice highway safety in the manner suggested by the Council.
13. Winding Way is not a through road and the number of dwellings it serves is limited. An additional dwelling in this context would neither materially nor harmfully alter the nature of access taken along Winding Way or volumes of traffic along it. The short stretch of restricted visibility around the slight S-bend instead acts as a natural form of traffic calming and, given the acknowledged minimal increase in vehicle movements, would not be so hazardous as to lead to harmful levels of conflict between vehicles, or between vehicles and pedestrians.
14. Access into the site from Winding Way would be repositioned closer to the northern plot boundary. Although the appellant has indicated a willingness to trim back the conifer hedge to improve northerly visibility, the effectiveness of such a step would be limited by the presence of the timber panel fence at the adjacent property. Nevertheless, the nature of Winding Way at this point is such that vehicle movements would be unlikely to give rise to significant levels of conflict with other vehicles or pedestrians. Furthermore, the width of the proposed access and views in a southerly direction across the plot frontage would be such that what limited vehicle movements would arise from one additional dwelling could be anticipated and accommodated by car-borne and pedestrian users of Winding Way.
15. For the reasons I have set out, I am not persuaded that the proposal would prejudice highway safety or fail to provide satisfactory means of access, parking, servicing or manoeuvring. Nor has it been demonstrated that an additional dwelling would compromise pedestrian safety or use of Winding Way

and its pedestrian links to surrounding streets. There would be no conflict with NNJCS policy 8(b)(i) or (ii) as a consequence.

Other Matters

16. The appeal site lies within 3km of the Upper Nene Valley Gravel Pits Special Protection Area (SPA) and RAMSAR site. The SPA is a composite site comprising of a number of separate blocks of land and water fragmented by roads and other features and is located adjacent to, or close by, urban areas. Thrapston lies closest to the northern-most block of land and water within the SPA.
17. The SPA is noted as an important area for the overwintering of populations of Bittern, Golden Plover and Gadwall and Mute Swan used by more than 1% of the Great British populations of these species. In addition to the above, it is also noted for supporting significant populations of wigeon, mallard, pochard, tufted duck, great crested grebe, cormorant, lapwing and coot. However, the proximity of the SPA to Northamptonshire's main towns is such that Natural England considers recreational disturbance to be the most significant threat to the SPA, with most visits to the SPA being from people who live within 3km of it.
18. The appeal proposal would result in a net increase of one dwelling with a consequent increase in local residents living within 3km of the SPA. This would be likely, in turn, to increase recreational pressure upon the SPA such as, but not limited to, dog walking and recreational walking, leading to increased disturbance of overwintering species and other species supported within the SPA. It is therefore likely that the proposal, taken both in isolation and cumulatively, would have a significant adverse effect on the integrity of the SPA and, as the competent authority, it is necessary for me to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SPA.
19. The SPD's mitigation strategy² sets out the approach to avoiding or mitigating significant effects on the SPA by securing a financial contribution towards Strategic Access Management and Monitoring (SAMM) and / or other suitable mitigation. The parties have, since the Council's determination of the application, agreed a financial contribution in accordance with the SPD's mitigation strategy. Natural England has been consulted as part of this appropriate assessment and has agreed with my conclusion that the mitigation would appropriately mitigate the significant adverse effect caused to the SPA. The agreed contribution has been paid, the Council have confirmed receipt and also that they no longer wish to defend the third reason for refusal. I am therefore satisfied that the proposal would not adversely affect the integrity of the SPA.

Conditions

20. I have considered the Council's suggested conditions in light of the National Planning Policy Framework and Planning Practice Guidance. I agree that time limit and approved plans conditions are necessary in the interests of proper planning and certainty and have attached those conditions accordingly.

² Addendum to the SPA SPD: Mitigation Strategy

21. I have also attached a materials condition in the interests of character and appearance, whilst details of boundary treatments and landscaping proposals are necessary in the interests of character and appearance and also in the case of the former, the living conditions of existing and future occupiers of neighbouring properties and the dwelling in question. The use of conditions to restrict permitted development rights should only be exercised in exceptional circumstances. However, I do not consider it inappropriate to do so in this instance in relation to fenestration on the north facing elevation of the dwelling ('proposed side elevation – view E' on drwg no 19-021-04A) in the interests of living conditions of existing and future occupiers of the approved dwelling and of Nos. 3c and 3d.
22. Details of proposed finished floor levels are necessary in the interests of character and appearance and living conditions, whilst those relating to refuse storage arrangements would ensure that appropriate provision is made. In the interests of highway safety an appropriately worded condition would ensure adequate arrangements access, parking and manoeuvring within the site would be provided. For the reasons I have set out, I do not consider that the proposal to be prejudicial to highway safety and, noting that the Council do not consider appropriate visibility splays could be provided with the site, I have amended the suggested condition to remove that element of the condition's wording.
23. Finally, as the proposal would involve construction operations in a residential context, conditions relating to hours of construction work, deliveries and burning of material are necessary in the interests of living conditions of occupiers of neighbouring properties.

Conclusion

24. For the reasons I have set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 19-021-01 Existing site plan & street scene; 19-021-04A Proposed floor plans and elevations; 19-021-05 Proposed site plan and street scene; and 19-021-06 Site location plan.
- 3) Prior to the commencement of development hereby permitted, full details and samples of all proposed facing and roofing materials shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) Before any work is commenced on the development the subject of this permission, details of the ground floor levels, ridge height and finished floor levels of the proposed building in relation to surrounding properties shall have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) Notwithstanding the submitted information, prior to the occupation of the development hereby approved, full details of all proposed boundary screening, including height, location and design, shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to the occupation of the development hereby permitted and shall thereafter be retained and maintained in perpetuity.
- 6) Prior to the occupation of the development hereby permitted, a comprehensive landscaping scheme for the site must be submitted to and approved in writing by the local planning authority. This landscaping scheme shall be implemented strictly in accordance with the approved details in the first planting season following the occupation of the first unit of the development hereby permitted. Any trees or plants which within a period of five years of planting die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species. All planting shall consist of native species only.
- 7) Prior to the commencement of development above damp proof course level, full details of the location and design of the proposed bin storage shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details prior to the occupation of the dwelling hereby approved and shall thereafter be retained and maintained for the lifetime of the development.
- 8) No demolition or construction work (including deliveries to or from the site) that causes noise to be audible outside the site boundary shall take place on the site outside the hours of 0800 and 1800 Mondays to Fridays

and 0800 and 1300 on Saturdays, and at no times on Sundays or Bank Holidays.

- 9) There shall be no burning of any material during construction, demolition or site preparation works.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending or re-enacting that order with or without modification), no additional windows or other openings shall be installed in the north elevation hereby approved.
- 11)
 - a. Prior to first use or occupation of the development hereby permitted, the means of access, within the red line site boundary, shall be paved with a hard bound surface for at least the first 5m from the private road boundary. Such surfacing shall thereafter be retained and maintained in perpetuity. The maximum gradient over a 5m distance shall not exceed 1 in 15
 - b. Prior to first use or occupation, the proposed vehicular access and parking facilities shall be provided in accordance with the approved plans and shall thereafter be set aside and retained for those purposes.
 - c. Prior to first use or occupation, suitable drainage shall be provided at the end of the driveway to ensure that surface water from the vehicular access does not discharge onto the highway or adjacent land.
 - d. No gates shall be erected at any point within the site.