



Appeal Decision

Site visit made on 10 March 2020

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st April 2020

Appeal Ref: APP/A2470/W/19/3243807

The Old School, 4 Main Street, Caldecott, Market Harborough LE16 8RS

- 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 & Mrs N & A Campbell against the decision of Rutland Council.
 - The application Ref 2019/0983/FUL, dated 29 August 2019, was refused by notice dated 28 October 2019.
 - The development proposed is a detached 2 storey dwelling with garaging.
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Decision

1. The appeal is dismissed.

Main Issues

- The effect on the living conditions of neighbours, with particular regard to outlook and privacy, and vehicle movements.
- The adequacy, safety and convenience of the vehicular access.

Procedural matters

2. The Council's decision was based on drawing AC/01C/PLANNING/2019, which removed a secondary window from the master bedroom, whereas the appellant's statement of case seeks to reinstate this window, while confirming that it could be removed by condition. As the Council has not commented on the merits of this window, the appeal will proceed on the basis of drawing 01C.
3. Information provided by the appellants in the form of the certification in the application form and a Land Registry title plan within their final submission indicates that they own a strip of land on the boundary between The Old School and 5 Uppingham Road, shown hatched and annotated B on drawing J. However, a neighbour comment questions this and, as it is not for me to determine land ownership, I shall consider both scenarios where necessary.
4. An updated location plan based on an Ordnance Survey map, dated 28 November 2018, is included in the appeal documents and shows the boundary between The Old School House and 1 Uppingham Road as I observed it on site. I have taken this plan into consideration.

Reasons

Living conditions

5. The proposed dwelling would be a form of tandem development, to the rear of The Old School, and bounded by part of the churchyard of St John the Evangelist and the back gardens of dwellings on Uppingham Road and Church Close. Policy SP5 of the Rutland Site Allocations & Policies Development Plan Document (DPD) requires this type of residential development to avoid material disturbance from vehicle movements and achieve adequate separation and design of dwellings. Policy SP15 in the same DPD and policy CS19 of the Rutland Core Strategy DPD require development to protect amenity and avoid unacceptable effects in terms of overlooking, loss of privacy, loss of light, pollution, odour, noise, visual intrusion, shading or other forms of disturbance or adverse impact on local character and amenities.
6. Additional vehicle movements arising from the new house would occur within the site and alongside The Old School, at the foot of the back garden of 1 Uppingham Road. I have noted another Inspector's findings on this point in respect of a nearby site¹; however, the layout in that case would have required vehicles accessing the new dwelling to park and turn immediately adjacent to a neighbouring back garden. That would not be the case in this instance and for that reason, and as the access route would be level, I am satisfied that neighbouring occupiers at The Old School and 1 Uppingham Road would not experience similar unacceptable harm from the additional movements associated with the new house.
7. The house would include 3 first floor windows, all serving en-suites, directly facing the neighbouring back gardens of 7 Uppingham Road and 2 Church Close. These windows could reasonably be obscure glazed to avoid loss of privacy to those properties, and also to 3 and 5 Uppingham Road, under the terms of a planning condition, although I have noted the mitigation offered by the significant depth of the back gardens to Nos 5 and 7. First floor windows in the front elevation of the house would face the rear of the Old School House and its retained back garden but the degree of separation would be sufficient to avoid loss of privacy through overlooking.
8. Views toward Glebe House, Church Close and 9 Uppingham Road would be possible from first floor windows serving the master bedroom, bedroom 2 and a landing; however, these views would be at angles and would be mitigated by existing planting. While I have noted the Council's views on the matter, I am satisfied that much of the planting in what would be the new house's back garden could be protected during development under the terms of a planning condition and thus retained throughout the construction phase. Accordingly, the proposed development would not give rise to unacceptable overlooking and loss of privacy to either property.
9. No. 2 Church Close is a bungalow with a shallow back garden. The proposed dwelling would stand relatively close to the boundary with the bungalow's back garden and would present a 2 storey gable to the rear of the bungalow. While this relationship would be at an oblique angle, the gable wall would be uncomfortably close to the bungalow and its private garden area and for this reason, and by virtue of its scale, would be unduly dominant. As a result, it

¹ APP/A2470/A/13/2201536

would fail to achieve adequate separation, with an adverse impact on the living conditions of the occupiers of the bungalow in terms of outlook. This would be contrary to the requirements of policies CS19, SP5 and SP15.

Access

10. A further requirement of Policy SP5 is that the development is provided with an adequate, safe and convenient access. Similarly, paragraph 110 d) of the National Planning Policy Framework (the Framework) requires development to allow for the efficient delivery of goods and access by service and emergency vehicles. The development would use The Old School's current access, shown on submitted document B. While I have noted local concerns about the safety of the exit onto Main Street, particularly in view of the nearby bend, no supporting evidence has been provided and the Highway Authority did not express dissatisfaction with the access. While I note that the access was found inadequate to serve an additional 4 letting rooms in 1987², evidence of the highway conditions at that time is not before me and I have therefore given greater weight to the Highway Authority's current advice.
11. The present alignment of the access, involving a dogleg, limits the ability of large vehicles to reach the appeal site, although the appellants have begun to remove a section of wall, which would allow localised widening near the dogleg. Plans J9 and J11 show a fire engine negotiating the dogleg following removal of this section of wall. However, these do not include wheel track details showing how a fire engine would approach and pass through the dogleg. Accordingly, they lack sufficient detail to demonstrate that the localised widening would achieve an adequate or convenient access to the appeal site, with or without the strip of land hatched and annotated on drawing J. Furthermore, I note that drawing J9 did not form part of the application as determined by the Council.
12. Although it is not for the planning system to ensure detailed compliance with other regulatory codes, in this case Part B5 of the Building Regulations (Part B5), the safety of future occupiers must be given weight. Part B5 sets an expectation that a fire engine should either be able to turn within the site or not have to reverse more than 20 metres onto the highway. Accordingly, and in line with my findings in respect of plans J9 and J11, I shall consider this aspect of the appeal on the basis of the arrangements shown on the block plan, document J8. This shows an emergency vehicle on the road side of the dogleg, albeit with only the rear of the vehicle within 20 metres of the highway, and therefore not fully compliant with Part B5.
13. Part B5 also states that all parts of a new dwelling should be within 45 metres distance of a fire engine. Based on the evidence in plan J8, this would not be achieved, as only the front of the house would be within 45 metres. However, if a fire engine were able to progress further into the site, sufficient to be within 45 metres of all parts of the dwelling, its front would be further than 20 metres from the highway. Because of this, and the absence of an identified turning area for a vehicle of that size, the situation would not comply with Part B5.
14. The appellants propose mitigation by providing a private fire hydrant and by installing sprinklers in the house, which they suggest could be secured by planning conditions. While these proposed measures arise from a genuine desire to achieve a safe living environment, they would not alter the fact that it

² 87/0164

has not been demonstrated that adequate, safe and convenient access, as required by policy SP5, or efficient access for delivery of goods and by service and emergency vehicles, as required by paragraph 110 d) of the Framework, can be provided.

Other Matters

15. Although the site does not meet the Framework's definition of previously developed land, the proposed development would contribute to housing supply within Rutland. However, the contribution would be limited, and it does not outweigh my findings on the main issues above. The design and materials of the proposed house would be in keeping with the character of the area and would avoid harm to the setting of nearby heritage assets and the appellants are willing to accept restrictions on construction activity in order to protect their neighbours' living conditions. However, these matters do not alter my findings on the main issues.
16. The proposed development would allow the appellants to address problems they currently experience as a result of the proximity of a bedroom in The Old School to Main Street; however, that relationship would remain the same for subsequent occupiers and accordingly I can only give this matter limited weight.
17. A tree on the boundary with 5 Uppingham Road, described as an oak by a neighbour, is not shown on the submitted plans; however, this does not alter my findings on the main issues or my overall conclusion.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Mark Harbottle

INSPECTOR