
Appeal Decision

Site visit made on 14 July 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2020

Appeal Ref: APP/W3005/W/20/3249602

19 Church Street, Kirkby in Ashfield NG17 8LA

- 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 Mr Dene Godfrey against the decision of Ashfield District Council.
 - The application Ref V/2019/0532, dated 4 August 2019, was refused by notice dated 14 October 2019.
 - The development proposed is outline planning permission with all matters reserved for a maximum of 1 dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of the development in the banner heading from the appeal form and the decision notice as this describes the development concisely and I have determined the appeal accordingly. However, in coming to my decision I have considered the points the appellant raises in his description of the development on the planning application form.
3. The application is in outline with all matters reserved for future consideration.

Main Issue

4. The main issue is the effect of the development on highway safety.

Reasons

5. The appeal site is an area of land located to the rear of 19 Church Street. It is enclosed by substantial hedging, although there is a connection to the garden of 19 Church Street on the western boundary and access to Orchard walk via a pedestrian gate. There is currently no vehicular access from the lane into the appeal site.
6. Orchard Walk is an unadopted highway from its junction with Church Street. A segregated footpath and cycle route which connects Church Street to Orchard Road forms part of Orchard Walk. At my site visit I observed that Church Street has a constant flow of traffic including buses and lorries. While my visit only provided a snapshot of the highway conditions, it is a busy road and the level of traffic is likely to increase at peak hours at the start and end of the working day.

7. I also saw during my site visit that at the junction of Orchard Walk with Church Street visibility of traffic and pedestrians is limited in both directions. Nevertheless, at its junction with Church Street, Orchard Walk is wide enough to accommodate two vehicles alongside each other. So that if a vehicle is exiting Orchard Walk in forward gear it would be possible for a second vehicle to enter the lane. This would be subject to alterations to the dropped kerb to facilitate this manoeuvre, which I accept would also benefit existing users of the lane.
8. Orchard Walk beyond the initial entrance, is a single car width poorly surfaced track that serves 5 properties and provides access into a field. Access to the field is controlled by a farm style gate. There is no vehicular turning area along Orchard Walk and I noted several the properties along it have sought to prevent turning within their driveways by cordoning them off. Consequently, car parking and manoeuvring along the lane is restricted and in the absence of being able to turn into driveways vehicles entering Orchard Walk would be required to reverse along the lane.
9. I observed that the width of Orchard Walk outside the appeal site is particularly limited. Taking this together with the limited size of the plot I am not satisfied that there would be space to provide a turning area within the appeal site and there would be very limited space to manoeuvre in to and out of a driveway.
10. Vehicles entering Orchard Walk as a visitor or for deliveries or if encountering another vehicle on the lane, would have to reverse back along Orchard Walk and either reverse on to Church Street or utilise the wider area at the entrance to the lane for manoeuvring and turning. This would likely lead to those waiting to turn into Orchard Walk to have to wait on the highway and would lead to turning and reversing manoeuvres near the entrance to the cycle and footpath.
11. I have considered the appellants suggestions to improve visibility at the entrance to Orchard Walk and the central location of the appeal site within Kirkby in Ashfield where there are opportunities to access facilities and services by other means than the car. However, I consider that there would be noticeably more traffic using Orchard Walk as a result of the development. With the limitations I have described the introduction of additional traffic movements along Orchard Walk would unacceptably compromise highway safety.
12. Therefore, I consider that the proposed development would prejudice highway safety for users, causing harm, in conflict with Policy ST1 of the Ashfield Local Plan Review 2002 (LP) which seeks to ensure that development would not result in adverse highway safety effects, it would also have a limited conflict with Policy HG5(a) of the LP in so far as the amenity of neighbours would be affected by the increase risk to highway safety at the entrance to Orchard Walk. The development would also conflict with the National Planning Policy Framework which does not support development if there would be an unacceptable impact on highway safety.

Other Matters

13. The appeal site is within the Kirkby Cross Conservation Area and is within the setting of three grade II listed buildings, including 13 Church Street located to the rear of the appeal site. The listed buildings and the Conservation Area are designated heritage assets. I am mindful of the duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to such

assets in exercising of planning functions. I do not have enough information before me to assess the effects of the proposal on the designated heritage assets. However, given that I am dismissing the appeal on other grounds I have not found it necessary to take this matter further.

14. The appellant states that the Council has a shortfall in its 5-year housing land supply, but I have not been provided with any up-to-date housing supply figures by either party. Even if I were to conclude that there is a shortfall in housing provision as the appellant suggests; because of the proximity to heritage assets I cannot be satisfied that Paragraph 11d (ii) would be engaged. However, if it were, the contribution of one dwelling to the housing supply would be small and carries very limited weight, and, based on the evidence before me, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
15. The appellant indicates on the application form that a passing place could be provided within the garden area of No 19 Church Street. However, I have not been provided with any details of the location of a passing place and access has been reserved for future consideration. Consequently, the possibility of creating a passing place does not change my conclusions on the main issue.
16. I appreciate that there are other shared accesses from Church Street, however, these are not located next to a shared cycle and footpath route and in any case do not justify the harm I have identified.

Conclusion

17. For the reasons given above, the appeal is dismissed.

Diane Cragg

INSPECTOR