



Appeal Decision

Site visit made on 7 July 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2020

Appeal Ref: APP/N2739/W/20/3250729

Jubilee Cottage, 13 Main Street, Thorganby, Selby YO19 6DB

- 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 Chris Garland against the decision of Selby District Council.
 - The application Ref 2018/1139/FUL, dated 4 October 2018, was refused by notice dated 8 November 2019.
 - The development proposed is construction of 1 No. dwelling on land to the rear of Jubilee Cottage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Chris Garland against Selby District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Council based its decision on revised drawings which, amongst other things, reduced the front projection of the dwelling. I have also assessed the proposal on the basis of these revised drawings.
4. The third reason for refusal on the Council's decision notice identified harm to the amenities of existing and future occupiers due to the relative positions of the existing dwelling at Jubilee Cottage and the proposed dwelling. The Council's appeal statement clarifies that their concerns in this regard specifically relate to matters of privacy and outlook. I have considered these matters under the third main issue.

Main Issues

5. The main issues are:
 - whether the appeal site would be a suitable location for the proposed development, having regard to the development plan and national policy;
 - the effect of the proposal on the character and appearance of the Thorganby Conservation Area (CA); and
 - the effect of the proposal on the living conditions of neighbouring occupiers at Jubilee Cottage and future occupants of the proposed dwelling with particular regard to privacy and outlook.

Reasons

Location

6. Policy SP2 (Spatial Development Strategy) of the Selby District Core Strategy Local Plan (2013) (CS) sets out a settlement hierarchy and confirms amongst other things that the majority of new development in the District will be directed to the towns and more sustainable villages. This approach is consistent with the sustainability aims of Policy SP1 (Presumption in Favour of Sustainable Development) of the CS and the National Planning Policy Framework (the Framework).
7. The appeal site is situated within the Development Limits of Thorganby which is identified as a Secondary Village under Policy SP2. In such locations limited amounts of residential development may be absorbed where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 (Management of Residential Development in Settlements) and Policy SP10 (Rural Housing Exception Sites). The proposal is for an open market dwelling and accordingly does not fall to be considered against Policy SP10.
8. Jubilee Cottage is set back significantly in relation to the predominantly linear form of other buildings to this section of Main Street. The proposed dwelling would be set back further still and positioned within the rear garden of Jubilee Cottage. Therefore, the development would not represent the filling of a small linear gap in an otherwise built up residential frontage, nor would it meet any of the other exceptions where residential development will be supported in Secondary Villages under Policy SP4. Development here would not support development in the most sustainable locations, which as explained in Paragraphs 4.55 of the pre-text to Policy SP4 is the intention behind the policy.
9. The appellant suggests that development of the site would not set a precedent. However, there is no substantive evidence before me to demonstrate that there are no other sites within the Development Limits of Thorganby or other Secondary Villages that do not sit within small linear gaps in otherwise built up frontages. I am therefore not convinced that an exception to the criteria under Policy SP4 in this instance would not lead to pressure for other such sites to be developed in Secondary Villages. In any case, this does not overcome the conflict with the development plan in this instance.
10. I conclude that the development would not be in a suitable location having regard to the sustainable development aims of Policies SP2 and SP4 of the CS and the Framework.

Character and appearance of the CA

11. The significance of the CA lies in its semi-rural character and generally traditional scale, form and layout of its buildings. The part of the CA where the appeal site is located is characterised by the predominantly linear layout of its buildings which are more often set back a similar distance in relation to Main Street. In contrast, Jubilee Cottage and its attached neighbour at No 14 Main Street, are set significantly further back from the boundary with the road. Even so, the scale and appearance of these buildings are in keeping with the local vernacular and they make a positive contribution to the CA.

12. The scale and form of the proposed dwelling and materials and fenestration that would be incorporated would be consistent with other dwellings in the CA. Existing boundary vegetation and the intervening distance from the public footpath and neighbouring dwellings on Main Street means the dwelling would be seen in close context with Jubilee Cottage. For these reasons the dwelling would be relatively discreet in terms of how it would be appreciated within the wider CA. Consequently, whilst the dwelling would not reinforce the prevailing linear alignment of dwellings, I find that its design and specific position in this instance would not result in material harm to the significance of the CA.
13. Taking the above factors into account, I conclude that the character and appearance of the CA would be preserved. In that regard, the proposal would comply with those requirements that seek to preserve heritage assets of Policies SP19 (Design Quality) of the CS and Policy ENV25 of the Selby District Local Plan Part 1 – General Policies (2005) (LP) and the Framework.

Living conditions of existing and future occupiers

14. Even accounting for the relative angles, there would be inter-visibility between the side and rear clear glazed windows serving Jubilee Cottage and the main windows serving 'bedroom 3' and the first-floor landing on the proposed dwelling. The rear garden and patio serving Jubilee Cottage would also be visible from first floor windows serving the proposed dwelling. Given the relatively close proximity of the existing and proposed dwellings, this has the potential to have a detrimental effect on the privacy for occupants of both dwellings.
15. The potential for obscure glazing to be secured by condition to windows on the proposed dwelling could mitigate the potential for overlooking to some degree. However, this would be likely to reduce the quality of outlook for occupiers of the new dwelling and some perceived overlooking would still remain particularly for occupiers of the existing dwelling.
16. The height of the proposed dwelling and its position set back from, but in close proximity to Jubilee Cottage, would be overbearing for occupants of the existing dwelling. It would be particularly harmful to outlook when viewed from the rearmost windows serving Jubilee Cottage and those parts of its rear garden and patio area that are positioned close to the boundary with the proposed dwelling.
17. I conclude that the proposal would have a harmful effect on levels of privacy for occupants of the existing and proposed dwellings and on the quality of outlook for occupiers of Jubilee Cottage. In that particular regard, the development would be contrary to those requirements which seek to protect amenity of Policy ENV1 of the LP. The proposal would also conflict with paragraph 127 of the Framework which amongst other things states that developments should provide a high standard of amenity for existing and future users.

Other matters

18. My attention has been drawn to a previous outline planning permission¹ on the site. In that instance, the Council's Committee Report noted the development would not comply with Policy SP4 of the CS but in the absence of a 5-year

¹ LPA ref 2015/0816/OUT

housing land supply granted planning permission. In contrast, the Council now has a suitable level of deliverable housing land and the development plan can be considered up to date. The previous permission has not been implemented and expired during the processing of the planning application subject of this appeal. Whether or not the appellant has been badly advised is not a matter that can influence my assessment of the appeal against the development plan. I therefore only attach limited weight to the previous planning permission on the site as a material consideration.

19. I note the other developments granted planning permission in the village that have been referred to by the appellant. In granting planning permission at East End Cottage² the Council gave weight to the fall-back position of an extant planning permission on the site. With regards to the other sites drawn to my attention³, I have only limited information before me, however I note the Council advises that the material considerations in those cases included a lack of 5 year housing land supply in one case and that the other related to development which was compliant with Policies SP2 and SP4. Overall, I am not persuaded that the circumstances in this case are identical to these other sites nor that they would justify development which conflicts with the development plan in this instance.

Conclusion

20. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
21. A single dwelling would make a limited contribution to meeting the Council's housing requirements. It would also generate a limited economic benefit through the development of the site and future occupants have the potential to make a limited contribution towards maintaining the viability of local services and facilities. There would also be a modest social contribution if occupants were to use local facilities. The proposal would also preserve the character and appearance of the CA which carries neutral weight in the balance.
22. However, given the failures identified, a new dwelling in this location would be inappropriate and would conflict with the sustainable development aims of the development plan and the Framework. The proposal would also result in harm to living conditions for the reasons detailed. These are matters which attract significant weight and tip the balance firmly against the proposal.
23. No further material considerations have been advanced of sufficient weight to justify a decision other than in accordance with the development plan which in terms of the above cited policies the appeal scheme would clearly conflict. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR

² LPA ref 2018/0226/FUL

³ LPA refs 2015/0684/FUL and 2017/0695/FUL