
Appeal Decision

Site visit made on 14 July 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2020

Appeal Ref: APP/E2530/W/19/3243515

9 Northorpe Lane, Thurlby PE10 0HE

- 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 and Mrs Simpson against the decision of South Kesteven District Council.
 - The application Ref S19/1126, dated 29 May 2019, was refused by notice dated 24 October 2019.
 - The development proposed is development of a 5 bedroom house on land to the rear of No 9 Northorpe Lane.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. This is an outline application with all matters reserved. Although there is an indicative layout plan, I have taken this to be illustrative only.

Main Issues

3. The main issues are:
 - Whether the development would accord with relevant local policies with regard to location;
 - The effect of the development on the living conditions of future and existing occupiers of No 11 with particular regard to noise and disturbance.

Reasons

Location

4. Residential development in Thurlby is supported in principle by Policy SP1 of the Local Plan¹ (LP) which allows development within the built-up part of settlements subject to meeting design principles set out in adopted Neighbourhood Plans, and Policy TNP09 of the Neighbourhood Plan² (NP) which allows gap or infill development, subject to compliance with a closed list of criteria.
5. Number 9 (No 9) fronts Northorpe Lane, and is part of a long linear frontage of detached and semi-detached dwellings. These form a strong and distinct

¹ South Kesteven Local Plan adopted January 2020

² Thurlby Parish Neighbourhood Development Plan adopted January 2019

- settlement edge. The plot is unusual in that it has an exceptionally long rear garden which is about three times the length of other frontage dwellings. This extends significantly into what appears to be pasture, with open countryside beyond.
6. The proposed dwelling would be backland development, with an access located between No 9 and 11 Northorpe Lane (No 11) and facilitated by the demolition of the existing garage. There is no existing vehicular access to No 9's rear garden.
 7. Backland development would in itself be out of keeping with the prevailing building pattern in this stretch of Northorpe Lane. Moreover, it would not *fill a gap in the continuity of existing frontage buildings, or be within the built up area of the village and closely surrounded by buildings* as required by NP Policy TNP09 for proposed individual dwellings.
 8. Even if the development did meet the criteria for gap or infill development, NP Policy TNP09 also sets out that development should be consistent with the character and existing pattern of development. I now turn to that criterion.
 9. The location of a dwelling anywhere within the appeal site would be inconsistent with the strong linearity of the underlying building pattern. It would also introduce frontage activity and significant built structures behind the established road frontage. This would disrupt and diminish the existing clear boundary between built form and open space, which would appear distinctly incongruous and inconsistent with the character and existing pattern of development.
 10. Even if I concluded that the development would not be out of keeping with the building pattern, it remains that it would not be an infill site and consequently there would be conflict with the Neighbourhood Plan which was only adopted last year. I appreciate that the appellant could build ancillary structures under permitted development rights, but these would not equate to the quantum of development associated with a five bedroom dwelling.
 11. Although not cited in the decision, the Council's reasoning is supported by LP Policy DE1 which states that development proposals will be expected to make a positive contribution to local distinctiveness and not have an adverse impact on the street scene, settlement pattern or character of the surrounding area. This backland development would have an adverse effect on the settlement pattern, and would dilute the distinction that currently prevails between the front and rear of the Northorpe Lane frontage.
 12. As such the development would be contrary to relevant local policies LP Policy SP1 and NP Policy TNP09 with regard to location, both as set out above. The Council has also cited Section 12 of the National Planning Policy Framework (the Framework) in its decision. Although no specific paragraphs are mentioned, the Framework is generally supportive of the policies I have referred to.

Living conditions

13. The proposed access would be enabled by the demolition of No 9's existing double garage and would run between No 9 and 11 Northorpe Lane (No 11). However, No 11's flank wall is close to the boundary. Even if the route was altered within the appeal site, the access would generate noise and disturbance

directly at No 11's rear. At No 11 this would be particularly evident at first floor level where windows for what appear to be habitable rooms run across the rear elevation. An acoustic fence or wall designed to mitigate noise and disturbance at first floor level would, in my experience, need to be of some height in order to provide an effective solution. This would be unacceptable and incongruous in a domestic setting.

14. I give little weight to the argument that there would be few vehicular journeys. The application is for a five bedroomed house which suggests there would be a number of occupiers. In any case, it remains that the access would be close to No 11's rear elevation and there would be manoeuvring as well as journeys along the access road with associated noise, light and general disturbance. Occupiers of No 11 should have a reasonable expectation of greater peace and quiet behind the road frontage. The development would be detrimental to their living conditions.
15. The Council has also raised a concern in respect of inter-visibility. Arguably the proposed dwelling could be located within the plot so as to minimise inter-visibility between it and No 9. The indicative drawings show that there would be some 20 metres between No 9 and the proposed dwelling. I am unable to conclude that there would necessarily be significant overlooking of either dwelling.
16. In the light of the above, I conclude that the development would be contrary to NP Policy TNP09 which requires new development not to be unneighbourly by causing an increase in noise, fumes and/or pollution and LP Policy EN1 which is concerned with noise and light pollution amongst other considerations. It would also be contrary to the Paragraph 127 of the Framework which requires development to be of a high standard for existing users.

Other matters

17. The Local Plan has been adopted since the appeal was lodged. I am unclear why the appellant advances the argument that the Council has not met the housing delivery tests required under the Framework. Table 1.5 of the Council's statement replicates housing requirement information provided at the Local Plan examination and includes a 20 per cent buffer. This table shows that the Council has a 5.95 year housing land supply (HLS), based on objectively assessed housing need. There is nothing before me to indicate that any of the expected supply of allocations to 2024, also included in the table, is no longer deliverable.
18. It is also argued that these figures are not based on an objectively assessed housing supply. However, they were accepted by the Local Plan Inspector at examination, and the Local Plan was adopted in January 2020. I see no reason to conclude that the housing need figures are flawed.
19. An independent assessment³ in May 2019 calculated recent housing delivery to be 73.5 per cent, rather than the 82 per cent calculated by MHCLG⁴. However, both figures indicate that housing delivery is greater than the 25 per cent threshold required for figures published between November 2018 and November 2019, as set out in the transitional arrangements in Paragraph 215 of the Framework.

³ Housing Delivery Test – Action Plan, May 2019

⁴ Ministry of Housing, Communities and Local Government

20. As such, I conclude that the Council can demonstrate a five year HLS, and has met the housing delivery test. Consequently, footnote 7 of Paragraph 11 d) of the Framework is not engaged and the relevant local policies for the determination of this appeal carry full weight. I appreciate that the threshold for HLS is a minimum but the evidence shows that the Council has significantly more than five years HLS. In any event, one dwelling would make a small contribution to windfall sites. Moreover, the housing assessment also shows that all settlements except Grantham have exceeded their cumulative delivery trajectories. The provision of one dwelling in Thurlby would not address housing under-delivery in Grantham.
21. As Paragraph 11 d) does not apply to this appeal I see no reason to consider the criteria to be applied before full weight can be given to the Neighbourhood Plan, as set out in Paragraph 14 of the Framework.
22. The appellant has drawn my attention to other backland sites, including a proposed allocation for fifty houses at Elm Farm Yard. However, there is limited information before me regarding the nature of the proposed housing, how it might meet specific needs identified in the housing needs survey or any other considerations the Council might have taken into account. In any case, fifty dwellings would represent a significant contribution to the Council's housing supply to weigh as a benefit in the planning balance. That would not be the case here.
23. Moreover, this example has been raised in the final comments and the Council has not had an opportunity to provide additional information. Consequently, it would be prejudicial to the Council for me to take this into account. It weighs neither for nor against the appeal.
24. With regard to applications S18/0948 and S19/0108, both appear to be infill plots along an established road. The fact that Water Lane is narrow does not alter my conclusions in this regard. As such these sites meet the relevant policy tests regarding infill development. The Inspector for the linear development of The Green concludes that that site is also an infill plot, noting that it would sit comfortably within the existing pattern of development. That appeal was also determined before the adoption of the Neighbourhood Plan which has set further tests in relation to the character and appearance of the settlement. As such these examples are not directly comparable. In any case, these permissions demonstrate that there has been development on small infill sites in recent years which has contributed to local housing supply.
25. I acknowledge that the appellant received positive pre-application advice. However, this was received before the adoption of the Neighbourhood Plan which sets out design principles for further development.
26. Interested parties have raised other concerns but as I have found harm in relation to the main issues there is no need for me to consider these further.

Conclusion

27. The development would fail to comply with relevant policies in the local development plan and there are no material considerations of such weight to lead me to conclude otherwise. Therefore, the appeal should be dismissed.

A Blacq INSPECTOR