
Appeal Decision

Site visit made on 26 January 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2021

Appeal Ref: APP/J3015/W/20/3262609

3 Swingate, Kimberley NG16 2PG

- 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 J Kemp against the decision of Broxtowe Borough Council.
 - The application Ref 20/00043/FUL, dated 16 January 2020, was refused by notice dated 21 May 2020.
 - The development proposed is described as 4 houses and garages.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Amended plans were submitted during the planning application process. For the avoidance of doubt, I have made my decision based on the plans the Council made its decision on.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of occupiers of existing neighbouring properties, and
 - the effect of the proposal on highway safety.

Reasons

Character and appearance of the area

4. The site comprises a semi-detached, two-storey dwelling (the host property, Number 3 Swingate), several outbuildings and an area of grassland extending south-east of the host dwelling, deemed by the Council to be garden associated with No 3. The rear gardens of several dwellings located on Swingate, Angus Close and Clive Crescent back onto, and abut, the perimeter of the site.
5. I acknowledge the appellant's interpretation of the area as not having any logical pattern in respect of layout, and I agree that the surrounding area is fairly-densely populated. However, my interpretation of the pattern of residential development south of the A610 and extending to the southern end of Swingate, is that of several cul-de-sacs either side of Swingate with more

cul-de-sacs extending off some of them (more so to the east of Swingate). The dwellings mainly front onto a road (adopted or unadopted) and their rear gardens either back onto the rear gardens of other properties or onto land in the surrounding countryside. Additionally, the rear gardens of the properties surrounding the site are of a generous size.

6. In effect the proposal would create another cul-de-sac off Swingate, served by an unadopted access road, and the proposed dwellings would front onto the road with their rear gardens backing onto the rear gardens of surrounding properties. I note that the proposed density may be lower than the assumed viable density of development sites within the Council's Strategic Housing Land Availability Assessment. However, as acknowledged by the appellant, a development could be considered to be over-intensive due to its effect on the living conditions of occupiers of existing neighbouring properties. I would also add that a development could be considered to be over-intensive due to its effect on the character or appearance of an area. Hence, it is not just density per se, but other factors also need to be borne in mind when assessing the impacts of a proposal.
7. The rear garden sizes of the proposed dwellings, in particular those of plots 1 and 4, but also the resultant garden to the east of the host dwelling, would be smaller than those of surrounding properties. For this reason, and bearing in mind what I conclude below in respect of living conditions of occupiers of existing neighbouring properties, I conclude that the proposal would be out of keeping with the character of the area and consequently harmful to its character and appearance. As such, the proposal does not accord with policies 10 of the Broxtowe Aligned Core Strategy (2014), (CS), and 17 of the Broxtowe Part 2 Local Plan (2019), (LP). Collectively, and among other things, these policies require development to be designed to make a positive contribution to a sense of place, have regard to local townscape characteristics, reinforce valued local characteristics, and to integrate into its surroundings.

Living conditions

8. I note that neither Policy 17 of the LP nor 10 of the CS specify separation distances between properties or garden sizes. I also note that the appellant asserts that Policy 17 is based on the 'Building for Life 12' criteria and recommendations for creating quality spaces. For clarification, from the evidence before me, the reference in Policy 17 to the Building for Life 12 criteria relates to housing developments of 10 dwellings or more. As the proposal is for 4 dwellings Policy 17 does not require reference to be made to the Building for Life 12 criteria. The justification of the policy (paragraph 3.10.5) acknowledges the difficulty in applying the Building for Life 12 standards to smaller schemes, and therefore the policy allows flexibility.
9. Policy 17 of the LP supports development which, among other things, ensures satisfactory living conditions for occupiers of existing neighbouring properties and Policy 10 of the CS states that development will be assessed in terms of, among other things, its impact on the living conditions of occupiers of existing neighbouring properties. Therefore, in the absence of any quantifiable policy detail, I am required to make a judgement regarding the effect of the proposal on the living conditions of occupiers of existing neighbouring properties. Given that the proposed dwelling on plot 1 would be sited close to the rear garden boundary of, in particular, number 2 Angus Close, and have a roof ridge height

of 4.6 m, and would be located what I consider to be a relatively short distance from the rear of No 2, I conclude that the proposal would harm the outlook from No 2 and would be overbearing in relation to the rear private outdoor space of the dwelling.

10. Consequently, the proposal would have a detrimental effect on the living conditions of the occupiers of No 2 Angus Close. As such, the proposal does not accord with the tenets of LP Policy 17 and CS Policy 10 that seek to safeguard the living conditions of occupiers of existing neighbouring properties.
11. I note that the appellant draws upon the conclusions of the Council Officer's assessment with regards the effect on the living conditions of occupiers of existing neighbouring properties. However, the Council did not accept the Officer's assessment or recommendation.

Highway safety

12. The proposed development is for 4 dwellings and retention of the existing dwelling. Therefore, the access, with private drive, would serve 5 properties in total. Each property would have on-site parking. The access, and at least around the first 15 m of the driveway, would be around 4.8 m wide. Swingate is an unclassified road with a 30 mph speed limit and relatively straight for a good distance in both directions from the site. Even if a few visitors to the dwellings had to park on the private drive, I do not consider this would prevent cars entering and leaving the site in a forward gear. Within the site-specific circumstances outlined, I am of the view, and I note that the Local Highway Authority did not raise any objections, that the proposal would not create any highway safety issues nor would it hinder the operation of the surrounding highway network. As such, in this regard, the proposal accords with policies 17 of the LLP and 10 of the CS, which support development that provides sufficient parking, a safe access and safe environment.

Other considerations

13. The proposal would provide 4 additional dwellings, of various sizes. The appellant suggests that the Council is not meeting its housing target for the Kimberley area, and the Council has not challenged this. However, there has been no suggestion that the Council cannot demonstrate a 5 year supply of housing land across the Borough, to meet the housing needs of the area; nor have I been presented with any evidence to suggest this. As such, I attach moderate weight to the benefit of the proposal providing 4 dwellings that would contribute to the mix of dwellings and the housing needs of the Kimberley area. However, this consideration does not outweigh the harms I have found in respect of character and appearance of the area and living conditions.

Other Matters

14. The appellant has questioned whether the Council's Planning Committee protocol was followed/adhered to when the planning application was presented to the Committee. This is a matter not within the scope of this appeal but one that the appellant may wish to pursue through the Council's complaints procedure.

Conclusion

15. Notwithstanding my conclusion regarding highway safety, for the reasons outlined, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR