The Planning Inspectorate

Appeal Decision

Site visit made on 23 March 2021

by Helen B Hockenhull BA (Hons) B.Pl MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 April 2021

Appeal Ref: APP/Z0923/W/20/3264584
Two Plots of land at the Looms, Weavers Avenue, Frizington, CA26 3AT

- 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 Jonathon Brown against the decision of Copeland Borough Council.
- The application Ref 4/20/2291/001, dated 20 July 2020, was refused by notice dated 24 September 2020.
- The development proposed is the erection of a two-storey dwelling and the creation of parking space.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal is in outline with all matters reserved for later approval. The submitted plans, insofar as they show a proposed layout and elevations, are for indicative purposes only and I have considered them accordingly.

3. The original planning application included a lengthy description of development which has been shortened by the Council. As this better reflects the development proposed, I have used this in the banner heading above.

Main Issues

4. The main issues in this case are:

   - the effect of the development on the character and appearance of the area; and
   - whether the development provides a suitable standard of accommodation for future occupiers, and
   - the effect on the living conditions of the occupiers of No.11 Weavers Avenue, with particular regard to loss of daylight and overshadowing.

Reasons

Character and appearance

5. This appeal relates to two plots of amenity land located to the north of Weavers Avenue in Frizington. The larger of the two forms a grassed area

with specimen trees providing two off street car parking spaces. The proposed dwelling would be located on this plot. The smaller area, lying next to an electricity substation, and separated from the larger plot by an access road, would provide car parking space to replace those lost by the development.

6. Weavers Avenue forms a relatively high density newly built residential estate of semi-detached and terraced dwellings. I noted on my site visit that the two plots the subject of this appeal, appear to be the only areas of public amenity space within this estate, other grassed areas form part of the frontage of individual dwellings. The larger plot is in a prominent location near to the entrance of the estate and makes a positive contribution to the character and appearance of the area.

7. The proposed development would result in the loss of this important area of amenity space and have a negative impact on the street scene. The appellant argues that the smaller amenity area would act as replacement amenity space. However, as this land already exists in this use, it would not provide a new area. I acknowledge that the two car parking spaces would be replaced. However, their provision would reduce the extent of this smaller grassed area even further, lessening its contribution to the character of the estate.

8. The appeal proposal is in outline so that the exact siting of the proposed dwelling is not before me. That being said, a dwelling in the location proposed, would not respect the existing pattern of development with semi-detached houses and terraced blocks setback from the road with rear garden areas. Furthermore, the property would not relate well to existing dwellings. If the proposed dwelling was orientated to face south, it would likely be forward of the building line of properties to the east. If it faced east or west, the dwelling would have a gable end facing the highway. In either case, there would be an adverse effect on the character of the area.

9. Given the above, the appeal scheme would be contrary to Policies ST1 and DM10 of the Copeland Local Plan 2013-2028 which seek to achieve high standard of design and quality of place. The proposal would also fail to accord with paragraphs 127 and 130 of the National Planning Policy Framework (the Framework) which aim to ensure that development is visually attractive and sympathetic to local character.

Standard of accommodation

10. The appellant has submitted elevation drawings of the proposed dwelling which are indicative only. Nevertheless, the Council's second reason for refusal considers the design of the dwelling. It states that windows would be limited to the south and east elevations resulting in substandard living accommodation. I note the Council's Officer report indicates that windows would be limited to the south and west elevations, which looking at the plans I assume more accurately reflects their concern. In any event I assess all elevations.

11. The eastern elevation of the proposed dwelling would face an access road, the smaller amenity area and the substation. Any windows in this elevation would appear to be acceptable causing no amenity issues. The Council advises that windows to habitable rooms on the southern elevation of the proposed dwelling would not achieve the Council's recommended separation distances but due to

the oblique relationship with No. 10 Weavers Avenue, an acceptable arrangement could be achieved. I agree with this assessment.

12. The northern elevation facing No.11 Weavers Avenue would not provide the Council's recommended separation distance and would have the potential for overlooking. However, obscure glazed windows or rooflights could be installed to overcome any loss of privacy. Turning to the east elevation facing the side elevation of No 15 Weavers Avenue, again separation distances would not be achieved, however there may be scope for some windows at ground floor screened by boundary fencing and obscure glazed windows at first floor. Therefore, depending on the final design and room layout, I consider that the proposed dwelling could provide a suitable standard of living accommodation for future occupiers.

Living conditions

13. With regard to loss of light and shadowing to No. 11 Weavers Avenue, I acknowledge that there is existing overshadowing of the rear garden area in the morning when the sun is in the east. Currently No.11 experiences sunlight from around mid-day to late afternoon when the sun is in the south. The construction of a two-storey dwelling in the location proposed, would result in overshadowing from midday into the early evening, increasing the length of time the neighbouring property would lack direct sun. This would have a negative impact on the living conditions of occupiers of the property.

14. The appeal scheme would therefore be contrary to Policies ST1 and DM12 of the Copeland Local Plan 2013-2028 which seek to ensure development provides good levels of residential amenity. The proposal would also fail to accord with paragraph 127 of the Framework which aims to ensure a high standard of amenity for existing and future occupiers.

Planning Balance

15. At the time that the application was determined, the Council was unable to demonstrate a 5-year supply of housing land. I have been made aware of the Council's Interim Housing Policy (2017) (IHP) published in response to this shortfall which was a material consideration at that time. However, the situation has now changed. The Council's Five-Year Housing Land Supply Statement published in November 2020, confirms that the Council can now demonstrate more than 5 years housing land supply. The IHP has now been revoked.

16. The Emerging Copeland Local Plan (ECLP) was the subject of consultation at the end of 2020. This new Plan is supported by the Strategic Housing Market Assessment (SHMA) which for the period 2017-2035 calculates a housing need of 140 dwellings per annum. The ECLP confirms that to meet this need development beyond the existing settlement boundaries set out in Policy ST2 of the Core Strategy will be required.

17. Given the above, the Council have advised that Policy ST2, a policy most important in the determination of this appeal, is out of date. In accordance with paragraph 11 of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

18. The appeal site is in a sustainable location, close to the shops and facilities in Frizington including public transport connections. The scale of development proposed would be appropriate for a settlement of this size, designated as a Local Centre in the Local Plan. The proposed dwelling would also contribute to the supply of housing in the area. However as this is for a single dwelling the contribution would be limited.

19. I note that the planning application form states that the dwelling would be a self-build and custom build development. The Council have outlined a number of self-build and custom build schemes in the Borough which are currently being marketed, meeting the identified demand. Whilst the scheme would add to the availability of such plots, given the above, I give this benefit limited weight.

20. The proposal would also provide economic benefits during the construction of the property, providing local employment and demand for materials in the supply chain. As this would be for a temporary period, the contribution to the local economy would be small.

21. Weighing against these positive aspects of the proposal, is the harm I have found to the character and appearance of the area and the living conditions of the occupants of the neighbouring dwelling. I consider this harm would significantly and demonstrably outweigh the benefits. The proposal would therefore not benefit from a presumption in favour of sustainable development. This forms a material consideration in the final balance. I have not identified any other considerations that indicate the decision should be made other than in accordance with the development plan. Accordingly, the appeal is dismissed.

Conclusion

22. For the reasons given above, and having had regard to all other matters raised, I dismiss the appeal.

Helen Hockenhull

INSPECTOR