



Appeal Decision

Site visit made on 19 April 2021 by Darren Ellis MPlan

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2021

Appeal Ref: APP/N2739/W/21/3266616

The Bungalow, Rawfield Lane, Fairburn, Selby, WF11 9LD

- 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 Mrs Katherine Fisher against the decision of Selby District Council.
 - The application Ref 2020/0947/FUL, dated 2 September 2020, was refused by notice dated 8 December 2020.
 - The development proposed is Demolition of 2no. outbuildings and construction of a new dwelling including materials and form new access from Rawfield Lane.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The new access that forms part of this proposal has already received planning permission in a separate application¹ for a replacement dwelling for the existing bungalow, with access from Rawfield Lane. This appeal will therefore focus solely on the proposed new dwelling.

Main Issues

4. The main issues are whether the proposal is in a suitable location for housing, having particular regard to the development strategy for the area and its effect on the character and appearance of the area.

Reasons for the Recommendation

5. The appeal site comprises a part of the existing rear garden of The Bungalow, and previously housed outbuildings which have recently been demolished. The proposal seeks permission for the erection of a detached dwelling which would be accessed from Orchard Drive, a private road that serves five properties situated on the north-eastern edge of Fairburn. The area in the vicinity of the

¹ Planning application ref: 2020/0995/FUL

- appeal site is characterised by properties in generous plots, that are laid out in a linear pattern and front onto the street.
6. Under the settlement hierarchy set out in Policy SP2 of the Selby District Core Strategy Local Plan (2013) (CS), Fairburn is designated as a Secondary Village. Policy SP2A(b) states that limited amounts of residential development inside Development Limits of Secondary Villages may be acceptable providing it conforms to Policy SP4 of the CS.
 7. Policy SP4(a) lists development that would be acceptable in principle in Secondary Villages, which includes filling of small linear gaps in otherwise built up residential frontages.
 8. The appeal site comprises a small parcel of land comprising part of the rear garden of the Bungalow. It is located within the Development Limits of the village to the side of No 1 Orchard Drive, a large detached 2 storey dwelling and to the rear of the detached garage at Toplands, beyond which is the dwelling at Toplands, which has a presence in the Orchard Drive street scene. Given this context I find that the appeal site comprises a small linear gap in an otherwise built up residential frontage and in this regard, there would be no conflict with CS Policies SP2 and SP4, insofar as they relate to development within the Development Limits of Secondary Villages.
 9. However, whilst supporting in principle the development of such sites, CS Policy SP4 makes it clear that this should not be at the expense of the character and appearance of the area. The new dwelling would be located some distance behind the front elevation of No 1 and the garage serving Toplands. Its siting would not respect the existing pattern of development along Orchard Drive or Rawfield Lane, and the resultant plot size would be significantly smaller than nearby residential plots. As a consequence, the proposal would result in a cramped form of development which would not protect or enhance the local environment.
 10. My attention has been drawn to recent approvals of new dwellings close to the appeal site. A 2018 appeal² allowed a new dwelling in a cul-de-sac. While the proposal did not fill a linear gap in a residential frontage, given that the properties at the head of the cul-de-sac were arranged in a circular pattern, the Inspector concluded that the proposal complied with the aims of policy SP4 as it would not comprise 'garden grabbing' and the development respected the character and appearance of the area. In 2020, planning permission³ was granted for six dwellings in Rawfield Lane close to the junction with Lunnfields Lane. It is reasonable to assume in this case that the Council considered that the proposal would not be harmful to the character or appearance of the area. For these reasons, these two examples are not directly comparable to the appeal proposal before me, which has been assessed on its own merits.
 11. Having regard to these matters I find that the proposal would be harmful to the character and appearance of the area. Accordingly, the appeal proposal is not in a suitable location because of the conflict with the character and scale aims of CS Policy SP4, and the safeguarding aims of the natural and manmade environment set out in CS Policy SP18, the high quality design aims of CS

² Appeal ref: APP/N2739/W/17/3189079

³ Planning application ref: 2019/1352/FUL

Policy SP19 and the design and layout aims of Policy ENV1 of the Selby District Local Plan.

12. In reaching this conclusion I am mindful of the judgments made in respect of *Tesco Stores Limited v Dundee City Council*⁴ and *Canterbury City Council v SSCLG and Gladman Developments Limited*⁵ which found that policy interpretation should be done objectively in accordance with the language used. As such, it is a question of fact and planning judgement and I have assessed the proposal accordingly.

Planning Balance and Conclusion

13. Whilst the proposal would provide housing, the provision of one additional unit would make little meaningful difference to the overall housing supply in the area. There would be a small social benefit in providing an extra housing unit, and economic advantages would also arise from the construction and occupation of a new house. However, these benefits would be limited and carry only moderate weight in support of the proposal.
14. I fully understand and acknowledge the appellant's reasoning for the construction of the new dwelling, namely for the appellant and her husband to live independently but to be close to their family, who will live in the replacement dwelling at The Bungalow, for support, care and assistance. I attach moderate weight to this reason.
15. The Council raises no concerns regarding the effect of the proposal on neighbouring properties, the effect on the future occupiers of the dwelling, highway safety or any other matter, and I have no reason to disagree with this. I also accept that the site is in a sustainable location with regards to local facilities and public transport. However, these are neutral matters in the planning balance.
16. Given that the benefits of the scheme are moderate, they do not outweigh the conflict with the development plan and the harm to the character and appearance of the area I have identified, harm that carries significant weight against the proposal.
17. For the reasons given above, and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree that the appeal should be dismissed.

RC Kirby

INSPECTOR

⁴ *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13; [2012] PTSR 983

⁵ *Canterbury City Council v SSCLG and Gladman Developments Limited* [2018] EWHC 1611 (Admin)