



Appeal Decision

Site Visit made on 15 June 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2021

Appeal Ref: APP/N2739/W/21/3268477

19 Fieldside Court, Church Fenton, Tadcaster LS24 9WA

- 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 L Mason against the decision of Selby District Council.
- The application Ref 2020/0395/FUL, dated 18 April 2020, was refused by notice dated 20 January 2021.
- The development proposed is described as 'erection of a detached dwelling to garden site'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I understand that the Church Fenton Neighbourhood Plan has not yet been examined nor subject to local referendum. Given its early stage of preparation, the Neighbourhood Plan carries very little weight and, therefore, I have assessed the proposal primarily against the policies of the Council's development plan and the associated provisions of the Framework.

Main Issue

1. The main issues are:
 - Whether the proposed development would provide a suitable location for housing having regard to the development strategy for the area;
 - the effect of the proposed development on the character and appearance of the surrounding area; and,
 - the effect of the proposed development on the living conditions of neighbouring residents at 30 Fieldside Court, with particular regard to their privacy and outlook.

Reasons

Suitability of the location

2. The appeal relates to the side garden of 19 Fieldside Court, a semi-detached three storey house as part of a modern housing estate. The site is mainly laid to lawn and bound to the east by residential gardens, the host property to the south and open countryside to the north. To the west is a further residential development that was under construction, and appeared to be nearing completion, at the time of my visit.
3. The Council's Spatial Development Strategy is set out in Policy SP2A of the Selby District Core Strategy 2013 (the Core Strategy). This policy sets out a

hierarchical approach to growth to ensure a sustainable pattern and distribution of housing is delivered over the plan period. To this end, the focus for new development is directed towards Selby as the district's Principal Town then to the Local Service Centres of Sherburn in Elmet and Tadcaster and then to a number of Designated Service Villages (DSVs), which includes the settlement of Church Fenton.

4. It is common ground between the main parties that the appeal site is located beyond the development limits of Church Fenton, as indicated on the Selby District Local Plan 2005 (the SDLP) Proposals Map. Accordingly, the site is located within the countryside for planning purposes.
5. The Council's approach to development in the Countryside is set out in Policy SP2A(c) of the Core Strategy which states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities in accordance with Policy SP13; or meet rural affordable housing need, or other special circumstances. Core Strategy Policy SP13 relates to the scale and distribution of economic growth, supporting proposals that would provide local employment opportunities or the expansion of existing businesses as part of the rural economy.
6. This approach is broadly consistent with national planning policy for the development of rural housing as set out in paragraphs 77 to 79 of the National Planning Policy Framework (the Framework), which seeks to locate housing where it would enhance or maintain the vitality of rural communities.
7. The proposal would offer some limited economic benefits through the construction and subsequent occupation of the proposed dwelling and this would, to a small degree, assist in maintaining local services and facilities in Church Fenton. However, I consider that these limited economic benefits are not of a type or scale envisaged by Policy SP13 of the Core Strategy and therefore the proposal does not benefit from this policy provision. Accordingly, being located beyond the development limits of the settlement, the proposal would not meet any of the exceptions set out in Core Strategy Policy SP2A(c).
8. The appellant is of the view that the development limits were defined many years ago and that the village has since outgrown the defined settlement limit, with the boundary cutting through the centre of the existing housing estate. Nevertheless, there is nothing within the Framework to suggest that the definition of settlement boundaries is no longer a suitable policy response and therefore that such policies are bound to be out of date. While recent developments may have breached the defined development limit, each case must be considered on its own merits and I do not have the details of why these other developments were found to be acceptable. Nor am I of the view that the defined development limit has been so extensively breached so as to render it redundant for policy purposes. Consequently, I am not persuaded that there is any justification for setting aside the defined development limit in this case.
9. To conclude on this main issue, the proposal would not meet any of the exceptions set out in Policy SP2A(c) of the Core Strategy and would therefore frustrate the Council's Spatial Development Strategy, undermining the plan-led approach to development. For these reasons, I find that the proposed development would not provide a suitable location for housing having regard to

the development strategy for the area. The proposal would therefore be contrary to Policies SP2A(c) and SP13 of the Core Strategy, the aims of which are set out above.

Character and appearance

10. Fieldside Court is a modern housing estate predominantly characterised by a mix of detached and semi-detached housing of two and three stories in height. Properties are well spaced and follow an obvious planned arrangement with three distinct cul-de-sacs.
11. 19 Fieldside Court is set at a right angle to No.30 and, while it extends beyond the rear elevation of No.30, it provides an obvious and planned termination to the cul-de-sac, with open countryside beyond. Its side garden area, along with the furthestmost parts of the rear gardens of the properties along the northern boundary of the estate, have been established from former countryside. Together, these garden areas provide a visual break between the built form of the housing estate and the undeveloped countryside to the north, adding positively to the open spatial qualities of the area.
12. Despite an appropriate design and scale that would respond well to neighbouring properties, the introduction of a dwelling at this location would have a notable physical presence that would result in a prominent form of development, detrimentally altering the site's open and undeveloped character. In doing so, it would further extend built form away from the settlement and well beyond the building line to the rear of properties along the northern boundary of the estate. It would also appear to extend beyond that of the neighbouring development to the west. As a result, the proposal would erode the open spatial qualities of the area, conspicuously protruding beyond the built envelope of the estate. This would not relate well to the existing well-spaced and planned arrangement of Fieldside Court and would therefore be harmful to the character and appearance of the surrounding area.
13. I appreciate that there are other buildings that have been developed beyond the defined development limits within the countryside adjacent to the settlement, but this does not in itself provide a justification for the harm presented by the appeal proposal. I do not therefore share the appellant's view that the proposal would make the best and most efficient use of land without compromising local distinctiveness, character and form.
14. Consequently, the proposal would harm the character and appearance of the surrounding area contrary to Policy ENV1 of the SDLP, Policy SP19 of the Core Strategy and the associated policies of the Framework. Together, amongst other things, these policies require development to achieve high quality design that has regard to local character and the context of its surroundings.

Neighbouring living conditions

15. The proposed dwelling would be two stories in height and positioned at a right angle to the rear garden area of No.30 Fieldside Court. This rear private garden area already experiences a degree of overlooking from the first and second floor windows of No.19, albeit at a slight oblique angle. However, the furthestmost part of this garden area enjoys a good level of privacy, free from any direct overlooking.
16. The principle elevation of the proposed dwelling would be located approximately 10 metres from the side boundary of the rear private garden of No.30, with three

windows serving the front two bedrooms at first floor level and looking out over this neighbouring garden area. Bedrooms serve as habitable rooms and, contrary to the appellant's assertion, are areas where occupants are likely to dwell for prolonged periods of time. This presents the opportunity for future occupants to directly overlook the neighbouring garden and therefore, despite the lack of any direct window to window conflict, this would significantly increase the level of overlooking to the neighbouring private garden area. This would result in an unacceptable loss of privacy for these neighbouring residents, to the detriment of their living conditions.

17. The appellant is of the view that most dwellings and gardens are overlooked and that the level of overlooking would be typical and is an unavoidable consequence of planning policy requirements for increased densities to make efficient use of land in existing settlements. Nevertheless, no evidence has been presented to support this assertion. I take a differing view in the context of both local and national planning policies which require high standards of amenity to be provided and maintained.
18. With regard to outlook, I am satisfied that the proposed garage building would be of a suitable scale and massing that would not adversely affect the outlook of the neighbouring residents. Furthermore, the garden area of No.30 is sizable and given the proposed separation distances, I consider that the proposal would not result in an overbearing or oppressive form of development when experienced from this rear garden area.
19. For these reasons, I find that the proposal would maintain an acceptable level of outlook for the neighbouring residents. However, I have found the proposal to be harmful to the living conditions of the neighbouring residents at No.30 Fieldside Court, with regard to their privacy. Therefore, the proposal would conflict with Policy ENV1 of the SDLP which seeks to protect the amenity of adjoining occupiers. In this regard, the proposal would also be contrary to the policies of the Framework which seek to ensure that developments provide a high standard of amenity for existing and future users.

Other Matters

20. In support of the appeal, the appellant has referred me to a number of appeal decisions where Inspectors have allowed residential development beyond defined settlement limits. However, most of the cases cited are in different parts of the country with differing site-specific circumstances and policy considerations. With regard to the local appeal decisions at West Farm and land adjacent to Southlands¹, whilst I do not have the full details of these cases before me, I can see from the Inspectors' decisions that a greater quantum of development was proposed at a different location and no harm was found to the character and appearance of the surrounding area or the living conditions of neighbouring residents. Therefore, they are not comparable to the case before me.
21. In addition, my attention has also been drawn to several recently approved small scale housing developments² that were located beyond the development limits of DSVs, despite the Council being able to demonstrate a 5-year housing land supply. However, I do not have the full details of these other schemes before me and so I cannot be sure that they offer a direct comparison in terms of scale, location or benefits.

¹ Ref. APP/N2739/W/17/3173108 and APP/N2739/W/15/3136685

² LPA Ref. 2017/0312/OUT, 2017/0235/FUL and 2016/0895/OUT

22. It has also been put to me that all of the housing sites in the SDLP have been delivered, with the exception of one or two, which are unlikely to be brought forward for development. The suggestion being that, given the emerging plan is at a very early stage of preparation, it will be some time before any new allocations are adopted. However, the appellant does not contest the Council's ability to demonstrate a 5-year supply of deliverable housing sites nor has any evidence been presented to suggest that the Council is struggling to meet its annual housing delivery targets.
23. The Framework³ provides support for a mix of differing housing sizes, types and tenures to meet the needs of differing groups of people including those who wish to commission or build their own homes. Recognition is also given to the contribution that small and medium housing sites make to the housing requirements of an area⁴. However, as set out in part 16 of the planning application form, the proposal is for a market-led dwelling and there is nothing before me that would secure the development as a self-build plot. In any case, the provision of a single self-build dwelling at this location, and recognising the contribution of an additional dwelling to the local housing supply, would not overcome the harms I have identified.
24. I acknowledge that the appeal site would be located within close proximity to a range of local services and facilities and would be accessible by public transport, via both rail and bus services. Furthermore, the site is not constrained by Green Belt or flood risk and there would be no highway safety, ecological or contamination issues. However, these are neutral considerations that do not add weight in favour of the appeal and do not, therefore, outweigh the harms I have identified and the subsequent conflict with the development plan.

Conclusion

25. I have found the proposal to be in conflict with the local development strategy as set out in the development plan. It would also conflict with development plan policies which seek to protect the character and appearance of the area and to maintain acceptable living conditions for neighbouring residents.
26. The other matters advanced in favour of the appeal, including the limited contribution to housing supply and the associated benefits, are not of sufficient weight to justify a determination other than in accordance with the development plan.
27. Accordingly, for the reasons given, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

J M Tweddle

INSPECTOR

³ At paragraph 61 of the Framework

⁴ At paragraph 68 of the Framework