



Appeal Decision

Site visit made on 30 November 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2022

Appeal Ref: APP/E2530/W/21/3274331

31 Halfleet, Market Deeping PE6 8DB

- 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 Justin Carter (JD Carter Ltd) against the decision of South Kesteven District Council.
 - The application Ref S20/0065, dated 9 January 2020, was refused by notice dated 1 March 2021.
 - The development proposed was originally described as 'Erection of a 4 Bed Detached Chalet Bungalow with separate detached garage & landscaping. Alteration to principal property's driveway entrance from highway to provide turning space & access to rear of property. Erection and maintaining of boundary fencing.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on i) the character and appearance of the area, and ii) the living conditions of neighbouring occupants, with respect to overlooking and loss of privacy.

Reasons

Character and Appearance

3. 31 Halfleet stands at one end of a short terrace of four, two storey, red brick dwellings set back from the road behind landscaped front gardens. It has a driveway and land to the side of the property providing access to the rear. The properties benefit from deep rear gardens of around 90 metres in length. Nos 25, 27 and 29 have fenced off smaller garden areas adjacent to the properties, with the large remainders appearing less actively used.
4. I saw that the rear two-thirds or so of the gardens of Nos 29 and 31 were not physically divided, but laid to a single area of grass. The rear of No 27 was in an overgrown state, and that at No 25 was laid to mown grass. The low boundary treatments between the gardens allows clear views across them. There is also a public footpath to the side of the garden of No 25 with a gap in the fence allowing a view over the appeal site, though I recognise this may be a temporary situation pending replacement of a broken fence panel. 33 Halfleet has a garden of similar depth on the other side of the appeal site, though a tall garden fence along the boundary separates this garden physically and visually from the gardens of Nos 25-31.
5. There is residential development surrounding the appeal site. To one side are the rear elevations of two storey dwellings in Forge Court. At the rear are two

storey dwellings on Chestnut Way. To the other side, beyond the public footpath, are the rear elevations of two storey dwellings on Dovecote Road.

6. The proposed dwelling would be located within the rear garden of No 31, the front elevation positioned roughly halfway along its total length. The dwelling would have a long, narrow footprint, measuring 20 metres in depth and between 4.6 metres wide at the rear and 7.1 metres at the front. It would outwardly resemble a cottage when viewed from the front and a contemporary chalet bungalow when viewed from the side. The dwelling would be accessed via an extension of the existing driveway to the side of No 31 leading to a detached garage and parking area in front of the proposed dwelling.
7. The appellant argues that the proposal would be a form of infill development supported under Policy SP3 of the South Kesteven District Council Local Plan 2011- 2036 (January 2020) (the Local Plan). I am not provided with a formal definition of 'infill' as it relates to this policy; however a straightforward interpretation of 'infilling' would indicate that the development would occupy a gap between two buildings or developments. Notably, the first criterion of the policy requires that the proposal is 'within a substantially built-up frontage or re-development opportunity (previously developed land)'. I interpret that infilling in this context refers to development which fills a gap in the street frontage. In this case, the dwelling would be located substantially to the rear of the frontage development on Halfleet. Reading the policy plainly, I consider that the proposal would not be within a substantially built-up frontage, and so would not accord with this first criterion. It would also occupy only one of the several gardens to the rear of the terrace, and therefore would not actually *infill* the whole of the gap in the built form. Moreover, garden land in built-up areas is specifically excluded from the definition of previously developed land in the National Planning Policy Framework (the Framework). Consequently, I find that the proposal would not amount to infill development and so would not enjoy support in principle under Policy SP3.
8. The appellant provides a number of examples of planning permissions granted by the Council where it is argued that Policy LP3 has been applied broadly and included backland-type development. Examples 2, 3, 4 and 6 appear to show backland or tandem development, but I am not provided with officer reports for these cases and it is unclear whether they were considered against Policy SP3 or were found acceptable under other policies of the Local Plan. Example 5 appears different in nature to the appeal scheme before me, being a larger development involving the creation of a new road serving several dwellings. Example 1 includes an officer report in which the site is considered to amount to infill development. However, whilst there may be some similarities in the nature of the proposals, the physical context of each site will differ to some extent, and therefore it is difficult to draw direct comparisons between proposals. It is well-established that planning applications should be determined on their own planning merits, and also that planning policies should be read objectively and words given their ordinary meaning. Therefore, whilst I have had regard to the examples cited by the appellant, they do not alter my conclusions that the proposal, on its own merits, would not constitute infill development under Policy SP3.
9. I am also cognisant that the officer reports presented to the Council's Planning Committee considered the proposal to comply with Policy SP3. However, that was not the position ultimately taken by the Committee. Ultimately, I have

formed my own view as set out above, and the initial position of Council officers does not alter this view.

10. This aside, the appellant argues that the area is characterised by backland development, with which the proposal would be consistent. However, the surrounding dwellings form part of larger, planned housing developments around new streets. Each addresses the highway and, from my observations and the plans provided, none constitute backland or tandem development accessed behind another dwelling. In this respect, and even if I were to agree with the appellant's interpretation of the site as infill development, the proposed dwelling would conflict with the prevailing pattern of development.
11. Moreover, the original deep gardens of the dwellings in the terrace are longstanding areas of open land and greenery which contribute a sense of spaciousness and tranquillity amid the built form, and which affords outlook for several neighbouring properties, including the dwellings in the terrace. The proposal would represent a stark change to this character. It would erode these qualities over a large part of this area, instead introducing significant built form and areas of hardstanding for parking and access. The dwelling would be substantially larger in footprint and overall scale than the existing dwelling to the front of the site. It would stand conspicuously in the middle of the rear garden, where it would harmfully erode the existing sense of openness and verdant character of the rear gardens. Its elongated chalet bungalow form would also contrast in size and form with the prevailing pattern of two storey detached and terraced dwellings, which would add to its incongruous presence.
12. For these reasons, I conclude that the proposal would represent an uncharacteristic form of backland development that would cause significant harm to the character and appearance of the area, in conflict with the requirements of Policy SP3 and with those of Policy DE1, which promotes high quality design that makes a positive contribution to the local distinctiveness, vernacular and character of the area; by reinforcing local identity and not having an adverse impact on the street scene, settlement pattern or the townscape character of the surrounding area.

Neighbours' Living Conditions

13. The Council's concern relates to proposed dormer windows in the side roof slope of the dwelling that would face towards the rear parts of the gardens of Nos 25, 27 and 29 Halfleet, and dwellings beyond in Dovecote Road. These windows are indicated to serve a bathroom and bedroom. However, it would be expected that the window serving the bathroom would be obscurely glazed and thus would not enable views out over neighbouring properties. Moreover, the windows would not serve rooms which would be occupied for extended periods during the day and the extent to which overlooking would take place would therefore be limited.
14. This aside, the windows would face towards the rear part of the gardens which are some distance from the neighbouring dwellings and are physically separated from the main garden areas adjacent to the dwellings themselves. The position and orientation of the proposed windows would not enable clear views over the main recreational spaces of these neighbouring properties, but rather would overlook lesser used grassed areas. These views would also be similar to views already possible from the rear windows of surrounding

dwelling. The distance between the windows and the dwellings on Dovecote Road would also be sufficient to prevent invasive views.

15. For these reasons, I am satisfied that the proposal would not result in invasive overlooking that would lead to a harmful loss of privacy for adjoining occupants. No conflict would therefore arise with Policy DE1 of the Local Plan, in terms of its requirement that development ensures there is no adverse impact on the amenity of neighbouring users, including due to loss of privacy.

Other Matters

16. 33 Halfleet, next door to the appeal site, is a Grade II listed building. The Council did not make a finding of harm with respect to the effect of the proposal on the setting of this listed building. I saw that its setting is for the most part defined by its presence in the street scene and the context established by adjacent frontage development. Consequently, I find similarly to the Council that the proposal, given it would be set well to the rear of the listed building, would not adversely affect its setting or overall heritage significance.
17. The Council did not find harm with respect to other matters including the standard of accommodation for future occupants, highway safety, drainage and flooding. On the evidence before me, including the comments of interested parties, I have no compelling reasons to disagree with these conclusions. However, the absence of harm in these matters means they are neutral factors weighing neither for nor against the proposal.
18. I have also had regard to other matters raised by interested parties beyond those already addressed. However, the evidence I have in these matters is limited, and none would appear significant enough to add further material weight for or against the proposal in the planning balance. Accordingly, I have not addressed these matters in further detail.

Planning Balance

19. I have found that the proposal would not have adverse effects on neighbours' living conditions. However, I have found that the proposal would cause significant harm to the character and appearance of the area, resulting in conflict with the development plan, taken as a whole, to which I afford significant weight.
20. Set against this, the proposal would deliver the benefit of an additional dwelling to the District's housing stock, along with economic benefits from construction and future expenditure by occupants in the local area. However, given the scale of the proposal, such benefits would attract only limited weight and taken together would not amount to material considerations which would outweigh the harm I have identified and consequent conflict with the development plan.

Conclusion

21. Therefore, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR