
Appeal Decision

Site visit made on 25 January 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31ST January 2022

Appeal Ref: APP/E2530/W/21/3277132

16 Exeter Gardens, Stamford PE9 2RN

- 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 & Mrs McCarthy against the decision of South Kesteven District Council.
 - The application Ref S20/2032, dated 30 November 2020, was refused by notice dated 8 June 2021.
 - The development proposed is a dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area including the setting of the Stamford Conservation Area.

Reasons

3. It is proposed to erect a one-bedroom dwelling with associated car parking and a garden area on land to the rear of No 16 Exeter Gardens. The dwelling would be identical in terms dimensions, siting and design to an outbuilding approved on the site in April 2019¹ albeit that such an outbuilding would be used on an ancillary basis in association with the use of No 16 Exeter Gardens as a detached house. This planning permission remains capable of being implemented and to that extent is a fall-back position to weigh in the overall planning balance. The local planning authority share this view and comment that *'the applicant has the fall-back option of constructing the garage, and then applying for a change of use afterwards'*.
4. Policy SP3 of the South Kesteven District Council Local Plan 2020 (LP) supports infill development where it is *'within a substantially built up frontage'*. The appeal site comprises residential garden land and is part of a wider swathe of long garden land which is predominantly undeveloped and landscaped and where there is a notable absence of development fronting the northern side of Tinwell Road Lane. On the basis that there is a planning permission for an outbuilding on the site, and there remains a prospect of it being constructed, I do not find that the technical conflict with policy SP3 of the LP would in itself justify refusal of planning permission. Furthermore, as the dwellinghouse would

¹ S/18/1901

be identical in appearance to the approved outbuilding, it would not be reasonable to refuse planning permission on the basis of the appearance of the proposed property.

5. Notwithstanding the above, the character of the tranche of land to the north of Tinwell Road Lane is experienced as being less developed and quieter than the land to the south. An appeal was dismissed in July 2016² for the erection of an indicative four dwellings fronting Tinwell Road Lane, including the appeal site. The appellant has commented that the pattern of development along Tinwell Road Lane has evolved since that time and has referred me to planning permissions for residential outbuildings, extensions and garages associated with properties off Tinwell Road. However, other than the planning permission for an outbuilding on the appeal site, I have not been provided with any evidence to demonstrate that any material changes have been made to the land to the north of Tinwell Road Lane since July 2016. In any event, I was able to experience this part of Tinwell Road Lane as part of my site visit.
6. The predominantly open, spacious and green land to the north of Tinwell Road Lane is currently appreciated by the passer-by as being part of the mainly very long and uninterrupted gardens of the detached properties on Exeter Gardens. This pattern of development adds positively to the spacious character and appearance of the area and provides a soft and undeveloped outer edge to the setting of this part of Stamford Conservation Area (CA).
7. As part of my site visit, I noticed that the level of pedestrian and vehicular activity associated with the garden land to the north of Tinwell Road Lane is noticeably lower than that associated with properties off Tinwell Road. Indeed, the land is appreciated as a more tranquil and undeveloped garden setting environment adding positively and distinctively to the overall character and appearance of the area.
8. There is considerably more frontage development on the other side of Tinwell Road Lane in the form of garages and outbuildings and this is primarily because most of the imposing and architecturally impressive dwellings off Tinwell Road, which fall within the CA, do not have driveways or parking areas to the front. This is in direct contrast to the dwellings off Exeter Gardens where most have driveways and car parking areas to the front.
9. Unlike the approved outbuilding, the proposal would have the effect of creating an independent dwellinghouse on the site separated from the property and garden area of No 16 Exeter Gardens by some form of boundary treatment. The dwellinghouse would consequently be positioned within a very tight residential plot in relative terms and hence the proposal would materially detract from the pattern of development within the immediate locality which is characterised by very long and spacious gardens associated with dwellinghouses on Exeter Gardens.
10. In its immediate setting, the proposed dwellinghouse would appear squeezed within its plot: it would have small garden areas which would not be reflective of the spacious and long garden pattern of development that relates to most of the other dwellinghouses in this part of north of Tinwell Road Lane.

² Appeal Ref APP/E2530/W/15/3135992

11. I acknowledge that a similarly designed outbuilding has been approved on the site. However, it is reasonable to conclude that use of the site as an independent and separate dwellinghouse would, in time, be more likely to lead to a greater urbanisation of the site from the point of view of the provision of additional domestic paraphernalia such as for example tables, chairs, trampolines, means of enclosure, more parked cars etc. In this regard, it cannot reasonably be said that in visual impact terms the outbuilding and the proposed dwellinghouse would be directly analogous and, in this regard, I find that some harm would be caused to the predominantly less developed and open character of the wider garden land associated with dwellinghouses off Exeter Gardens.
12. In addition to the above, there would likely to be a relative increase in the number of comings and goings associated with use of the site as an independent dwellinghouse. No 16 Exeter Gardens has parking to the front and its main pedestrian entrance. It is therefore reasonable to take the view that even if the approved outbuilding were to be erected, both visitors and occupiers of No 16 Exeter Gardens would also continue to use existing car parking and access arrangements to the front. In comparison, the appeal proposal would likely lead to a relative increase in vehicular and pedestrian comings, goings and activity on the site and in Tinwell Road Lane, including very confined and busy activity within the new and separate garden areas. This level of intensity of use would cause unacceptable harm to the essentially more tranquil, quiet, and rural character of the land to the north of Tinwell Road Lane.
13. For the above reasons, I find that the proposal would harm the character and appearance of the area. Less than substantial harm would be caused to the significance of the CA arising out of harm to its setting. This harm would not be outweighed by any public benefits of the proposal, including boosting the supply of homes in the area and associated social and economic impacts. The existence of the planning permission for an outbuilding on the site does not alter or outweigh the above findings. Put another way, the outbuilding fall-back position would not have the same harmful impact on the character and appearance of the area, including the setting of the CA, as the appeal development.
14. I therefore conclude that the proposal would not accord with the character, appearance and conservation requirements of policies DE1, EN6, SP2, SP3 of the LP and paragraphs 130 and 202 of the National Planning Policy Framework 2021.

Other Matters

15. At final comments stage the appellants commented that they had not been consulted in respect of various developments on the south side of Tinwell Road Lane. I do not know if this is the case or not and, in any event, this is a separate matter that the appellants would need to raise with the local planning authority.
16. I acknowledge that one appellant has a health condition and that a smaller dwelling with a more manageable sized garden would make life easier. In this respect, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 and rights conveyed within the Human Rights Act. I find that a refusal of planning permission is a proportionate and

necessary approach to the legitimate aim of protecting the character and appearance of the area including the setting of the CA. The protection of the public interest cannot be achieved by means that are less interfering of the human rights of the appellant.

17. None of the other matters raised alter or outweigh my conclusion on the main issue.

Conclusion

18. For the reasons given above, the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

D Hartley

INSPECTOR