
Appeal Decision

Site visit made on 5 August 2022

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2022

Appeal Ref: APP/M2840/W/22/3292417

Land at Railside Lane, Corby NN17 1NA

- 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 the Estate of Roger Thompson against the decision of North Northamptonshire Council.
 - The application Ref NC/21/00443/DPA, dated 6 October 2021, was refused by notice dated 23 December 2021.
 - The development proposed is the erection of single two-storey dwelling together with associated car and cycle parking.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to privacy and the effect of the proposed development on highway safety for users of Railside Lane.

Reasons

Living conditions

3. Just beyond the site, I saw that a sizeable development was under construction on cleared land. The Council has advised that the adjacent scheme will include 150 flats with a 4-storey building immediately to the northwest of the site, which is referred to as Blocks B and C, that will contain numerous windows facing it. According to the Council, a gap of just less than 20 metres would separate the proposal with Blocks B and C at the closest point. The appellant does not contest any of these matters.
4. The proposed dwelling has been carefully designed to reflect the potential for overlooking from the adjacent development. Unlike an earlier proposal for 2 dwellings on the site that was refused planning permission, there would be no habitable room windows in the sidewall of the new addition broadly facing the neighbouring scheme. A new 1.8m high wall along the common boundary with the adjacent development would also screen the back garden of the new dwelling, to some extent, as would the loggia and extra planting. This garden would provide the main private amenity space (PAS) for future occupiers.
5. This arrangement would effectively shield views towards the proposed PAS from the ground floor flats of Blocks B and C. However, in the absence of

evidence to the contrary, it is highly likely that the PAS would be seen from a reasonably close range from the southeast facing windows of the highest-level flats once they are occupied. The value of the PAS to future occupiers as attractive and useable space for day-to-day activities such as sitting out or for children's play would be significantly diminished by overlooking from these vantage points given the angle of view from this elevated position.

6. In my experience, some overlooking of this type is a characteristic of the relationship between neighbouring buildings within main built-up areas. That is likely to be the case from some upper-level flats in the adjacent development towards existing properties including those on Oakley Road and Station Road, to which the appellant has referred, that appear to be further away from Blocks B and C than the appeal site. Nevertheless, the overlooking in this case would be considerable and difficult to effectively mitigate by, for example, introducing a taller boundary wall, fence, or further landscaping. This is because views of the proposed PAS from some of the adjacent flats would be from such a high level position. To my mind, the extent of overlooking possible would severely impinge on the enjoyment of the proposed PAS because future occupiers of the appeal scheme would experience an unacceptable loss of privacy.
7. Prospective occupiers would obviously be aware of the close relationship between the new dwelling with the adjacent development of flats and some may not be concerned about overlooking. Furthermore, it is the appellant's view that it is not up to the Council to decide whether the site is overlooked especially given that the issue of privacy has only arisen from its decision to grant planning permission for the adjacent flats. However, the quality and usability of the proposed PAS, which are key design considerations in a new residential scheme, would be very limited in this instance. The National Planning Policy Framework (the Framework) also makes clear that planning decisions should ensure that developments, amongst other things, create places with a high standard of amenity for both existing and future users. As the proposal would not do so, it is at odds with this policy.
8. On the first main issue, I therefore conclude that the proposal would not provide satisfactory living conditions for future occupiers. As such, it conflicts with Policy 8 of the North Northamptonshire Joint Core Strategy 2011–2031 (JCS) insofar as it aims to safeguard residential amenity.

Highway safety

9. Access to the site would be from Railside Lane, which is a private road that serves the rears of several properties that address Oakley Road and various garages and outbuildings. As the Lane is a cul-de-sac which terminates at the main body of the site, its primary function is to enable local residents to access the rear of their properties and a number of outbuildings from Station Road. As such, it is likely that most users of the Lane would be familiar with local conditions. According to the appellant, the Lane was also regularly used by vehicles associated with the former use of the site as a builder's yard.
10. The width of the Lane is modest with no reasonable opportunity for two vehicles to safely pass each other at the same time while travelling in opposite directions. Even so, the Lane appeared to be well used and the additional vehicle movements associated with a single dwelling, as proposed, would be fairly low. Consequently, I doubt that the risk of 2 vehicles traveling in

opposing directions and meeting each other on the same stretch of Lane would be significantly greater if the appeal scheme were to come forward.

11. If it were to occur, I observed that forward visibility along the Lane, which is considerable in length, was good and that vehicle speeds were low. The sign at the entrance to the Lane indicates a speed limit of 5mph. Consequently, drivers using the Lane would be likely to see each other in good time to allow one to give way and let the other vehicle safely pass. That arrangement is likely to happen at present. Similarly, most drivers would have sufficient time to react to any unexpected potential conflict with oncoming pedestrians and cyclists. While the Lane has no dedicated footway along its entire length, there was space along either side for those walking or cycling to take refuge, if necessary, as vehicles pass with a comfortable clearance margin for safety.
12. To my mind, the narrowness and variable condition of the Lane mean that it is not well suited to frequent use by commercial vehicles, which the appellant states could occur if the use of the site as a builder's yard were to be resurrected. In that eventuality, the Lane could be used more intensively by larger and heavier vehicles than those associated with the proposed dwelling. It is not clear whether this would come to pass. However, the possibility that it might lends support to the appellant's case because the effect on highway safety for users of the Lane is likely to be worse than the proposal.
13. During my site visit, I saw no examples in which cars were parked in a way that would hinder or obstruct other users of the Lane nor have any instances been brought to my attention. Since the proposal would include adequate space for parking and circulation of vehicles on site, I am not persuaded that it would lead to or cause such problems.
14. Overall, I find that the proposed development would not significantly harm highway safety for users of Railside Lane despite its length and the lack of vehicle passing places. As such, it does not conflict with JCS Policy 8, which seeks to ensure that development does not prejudice highway safety. My finding on this issue does not outweigh the harm that I have identified in relation to the living conditions of future occupiers.

Other matters

15. I note the appellant's view that a refusal of planning permission in this case would render the site sterile from development and that it would retain an island of industry within a residential area. I acknowledge that the site is well connected with public transport, cycle routes, local shops and services all within convenient walking distance. The appeal scheme would add to the supply of housing on previously developed land within an established residential area, which has policy support. No objection is raised to the design of the new dwelling or to the effect on the living conditions of others. However, these matters do not outweigh the identified harm.
16. Interested parties raise several additional concerns including security, waste collection, access for emergency vehicles, land ownership, visual impact and potential noise and disturbance. These are important matters and I have considered all the evidence before me. However, given my findings on the first main issue, these are not matters upon which my decision has turned.

17. The appellant is critical of the Council in failing to notify the then applicant of the proposal that sought planning permission for the flats on the adjacent land. However, my remit is solely to determine this appeal.

Conclusion

18. The proposed development would conflict with the development plan. There are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR