



Appeal Decision

Site visit made on 22 November 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2022

Appeal Ref: APP/R2520/W/22/3300117

Former Ark Building adjacent to 20 Nettleton Drive, Lincoln LN6 9GF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mark Kane (M & D Homes) against the decision of North Kesteven District Council.
 - The application Ref 21/1216/FUL, dated 11 August 2021, was refused by notice dated 3 December 2021.
 - The development proposed is erection of a new bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon i) the character and appearance of the area and ii) the living conditions of the existing occupiers of 20 Nettleton Drive with regard to outlook, and the future occupiers of the proposed dwelling with particular regard to outlook, light and the quality and quantity of garden space.

Reasons

Character and Appearance

3. The appeal site is located within a residential area, characterised by suburban dwellings with views of the surrounding countryside readily apparent between buildings. The surrounding area has a pleasant, green and spacious quality.
4. The appeal site relates to a plot of land consisting of a partially tarmaced surface with a large, mature oak tree close to the western boundary that is protected by the Witham St Hughs (Former Ark Site) Tree Preservation Order 2019; [N756 2019] (TPO). The TPO tree is a skyline feature, visible above the rooftops of the dwellings located on Nettleton Drive and therefore contributes to the green quality of the area.
5. The appeal site is enclosed to the north and east by the 2-storey semi-detached dwellings located on Nettleton Drive, and 2 recently constructed detached bungalows to the west, off Gray Lane. All of the dwellings surrounding the appeal site have relatively simple rectangular footprints with dual pitched gabled roofs to the sides, sited in rectangular plots with front and private rear gardens.
6. The proposal would result in the erection of a single storey dwelling between the crown spread of the TPO tree and the rear boundary of 20 Nettleton Drive.

Whilst it is appreciated that the proposed development has been designed to minimise the impact on the TPO tree and the neighbouring property, it would nonetheless result in an unusually shaped dwelling with a complicated footprint, staggered elevations and multiple interconnecting pyramidal and hipped roofs.

7. Whether or not the proposed dwelling would be sited on previously developed land, it would be partially visible from the junction of Gray Lane and Nettleton Drive. I saw that although a no-through road, Nettleton Drive is well used by local walkers, given its connection to a public footpath alongside the modern housing development to the south of the appeal site. In these albeit close views, the proposed development would have a somewhat squat appearance with a complicated roof form. The use of materials to match neighbouring dwellings would not mitigate the impact of the contrasting form of development, to any significant degree. The proposed dwelling would therefore appear inharmonious with the prevalent pattern and form of development surrounding the appeal site.
8. The 'L' shaped plot whilst apparent in a plan view would not be particularly discernible in public views. The long thin garden to the front of the appeal site would appear as a side garden alongside that of No 20 and demarcated by a timber fence. This is a typical arrangement of the semi-detached properties located on Nettleton Drive.
9. It is suggested that similar single storey dwellings have been approved in the vicinity of the appeal site (application reference 15/0740/FUL). Little evidence is before me as to the context under which these dwellings were permitted, including whether they were determined under the same local plan policies of the Central Lincolnshire Local Plan 2017 (CLLP). I cannot therefore be certain that the circumstances are comparable. Reference is also made to planning approval 17/1100/FUL. The site layout plan provided indicates the dwellings are of a simple rectangular plan form, with a dual pitched roof and gables to the side. They therefore differ to the proposal before me.
10. The siting and form of the proposed dwelling would result in a discordant form of development that would materially harm the character and appearance of the area. The proposal would therefore fail to accord with Policies LP2 and LP26 of the CLLP which amongst other things, seek to ensure that new development relates well to the site and surroundings including siting, height, scale and form. The development would also fail to accord with paragraph 130 of the National Planning Policy Framework (the Framework) which requires developments to be of a high quality design and sympathetic to local character, objectives shared by the National Design Guide 2021 (NDG).

Living Conditions - Future Occupiers

11. The proposed plot layout would result in 2 distinct garden areas, one to the front of the appeal site alongside Gray Lane and one to the west. Although an unusual shape and constrained by the presence of the TPO tree, the proposed garden areas would provide sufficient space overall for typical residential needs including outdoor eating, drying washing, gardening or children's play space.
12. I saw that the tree extended over a large portion of the site and with a large and relatively low canopy spread, which even in autumn had substantial leaf cover. The proximity of the proposed dwelling to the tree is therefore likely to

result in future pressure for the tree to be lopped, topped or removed as it would limit the daylight to bedroom 1 and sunlight to the garden area at the rear of the plot which would be particularly gloomy. The proposed development would increase the risk of works to the tree that would substantially reduce its contribution to the character of the area.

13. As the hallway is not a habitable room and bedroom 2 would have a dual aspect, these parts of the dwelling would not be unduly affected by shading. Bedroom 3 would be served by one window located immediately adjacent to the rear boundary of No 20, currently formed by a timber fence. Whilst the window may provide some natural light to the room given the upper-most part would be above the fence line, the outlook would be dismal, with inferior and enclosed living conditions created for the future occupants.
14. Outlook from the main living space would also be compromised by the proximity of the windows in the southern elevation to the proposed boundary fence to Gray Lane. However, the windows would be orientated to face south and the upper-most section would protrude above the proposed boundary fence such that they would receive both daylight and direct sunlight. Given that the room would be open plan and an additional opening in the eastern elevation would face into the garden, there would be sufficient light and outlook to this habitable room overall.
15. Noise and disturbance for the future occupants of the proposed development is unlikely to be generated despite the proximity to Gray Lane, given its low-level usage as an access drive to just 2 dwellings.

Living Conditions - Neighbouring Occupiers

16. The proposed dwelling would extend across the majority of the rear boundary of No 20 and wrap around the corner of the rear garden in close proximity to the boundary fences. Nonetheless, it would be single storey with pyramidal and hipped roofs sloping away from the boundaries. Although partially visible above the fences, due to the overall limited height and scale of the development, it would not appear unduly prominent or overbearing from the garden or the habitable rooms of the neighbouring dwelling, especially given the presence of the garage to the corner of the plot.
17. I therefore find that whilst the impact on the outlook of the existing occupiers of No 20 would be acceptable and that noise and disturbance would not create unacceptable living conditions for the future occupiers, nevertheless the siting of the proposed dwelling in proximity to the TPO tree and existing boundary to No 20, would result in inappropriate living conditions for the future occupiers in terms of outlook, daylight and sunlight to habitable rooms and the garden. Consequently, conflict is found with Policy LP26 of the CLLP which amongst other things, requires new development to not unduly harm the amenities of existing and future occupants of neighbouring land and buildings. It would also conflict with paragraph 130 of the Framework which requires new development to have a high standard of amenity for existing and future users, objectives shared by the NDG.
18. The Council refers to Policy LP2 of the Local Plan in its reason for refusal. However, this policy concerns the spatial strategy and settlement hierarchy and therefore has not been determinative with reference to living conditions.

Other Matters

19. Reference is made to the proposed dwelling being a low energy, EPC A rated building, with solar panels and an air source heat pump for future low running costs. Whilst commendable, such objectives do not appear to be inherently reliant on the scheme before me. An alternative scheme maybe able to achieve similar benefits without causing the harm identified. This weighs neither for, nor against allowing the appeal.
20. The proposal would make a positive contribution to the range of housing stock, particularly for those future occupants with level access accommodation needs. However, the benefits of one dwelling in this regard would be relatively modest and therefore I can only attribute limited weight.
21. I note a letter of support from a neighbouring resident. However, the matters raised do not alter my findings on the main issues.

Conclusion

22. I have found the proposal would be acceptable in terms of the impact on the living conditions of the existing occupants of No 20 with regard to outlook. I have also found that the quantity of garden space would be acceptable for the future occupants of the proposed dwelling and, there would not be an adverse effect arising from noise and disturbance. However, the absence of harm in these respects is neutral in the planning balance.
23. Limited weight is attributed to the provision of one level access dwelling. As such, this does not outweigh the harm identified in respect of the character and appearance of the area and the living conditions of the future occupiers in respect of outlook, daylight and sunlight to habitable rooms and the rear garden.
24. There are no material considerations in this instance that lead me to find other than in accordance with the development plan. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR