



Appeal Decision

Site visit made on 20 February 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2023

Appeal Ref: APP/E2001/W/22/3308932

Sunnybank, 27 Old Village Road, Little Weighton, East Riding of Yorkshire HU20 3US

- 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 Carol Winter against the decision of East Riding of Yorkshire Council.
 - The application Ref 22/01374/PLF, dated 14 April 2022, was refused by notice dated 23 June 2022.
 - The development proposed is the erection of a detached single storey dwelling following the demolition of existing garage block with associated works for parking with separated access together with pedestrian link to footway on Old Village Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area, with particular regard to its siting; and,
 - the living conditions for existing occupiers, with particular regard to outlook for the occupiers of No. 27 Old Village Road.

Reasons

Character and appearance

3. The appeal site includes part of the rear and side garden of No. 27 Old Village Road, which is set at a higher level than No 27 and it would have its vehicular access from Potterdale Drive to the rear.
4. Little Weighton is characterised by dwellings mainly having a street presence or a frontage onto a shared courtyard area with many properties having relatively regular shaped plots and having both front and back gardens. No. 27 and the nearby properties on this side of Old Village Road occupy spacious and largely regular shaped plots with varying setbacks from the road, containing trees and hedges. There is also an undeveloped area with several mature trees to one side of the site. This gives the immediate area a low density, spacious and landscaped character. Potterdale Drive to the rear, is a cul-de-sac of modern detached and semi-detached housing, all with reasonably sized and regular shaped plots, orientated to face onto the road.

5. The proposed dwelling would be set back from both Potterdale Drive and Old Village Road and would not have a street presence. The steps proposed to Old Village Road would not result in a meaningful street frontage form of development. It would introduce a new dwelling into the rear garden environment which would be significantly at odds with the prevailing character and appearance of the area. Furthermore, the siting of the proposed dwelling would be very close to two sides of the appeal site, which would be inconsistent with the spaciousness and siting of other dwellings in the immediate area.
6. I note that the proposed dwelling would replace an existing outbuilding of little architectural merit, it would not be particularly visible from outside the appeal site, and that there is some existing screening from planting on and near the sides of the appeal site. However, these matters do not justify its inappropriate siting, moreover the existing landscaping is not necessarily a permanent feature, with much of it being outside of the appeal site. In addition, the proposal would also be visible from the surrounding properties and would be likely to reduce occupiers' appreciation of the quality of the environment within which they live. Furthermore, the significant changes in ground levels and its raised height, together with the new steps would make the siting of the proposed dwelling particularly conspicuous from those viewpoints and harmful to the spacious and landscaped character in this immediate area.
7. To conclude, the proposed dwelling by virtue of its inappropriate siting would be harmful to the character and appearance of the surrounding area and be contrary to the requirements of Policies S4 and ENV1 of the East Riding Local Plan 2012 – 2029, Strategy Document, adopted April 2016 (ELP), which amongst other things, require new development to be high quality, and respect the character and appearance of the area. There would also be conflict with paragraphs 124 and 130 of the National Planning Policy Framework (the Framework) that amongst other things, seeks to ensure that new development functions well, adds to the overall quality of an area and respects its prevailing character.
8. The Council has referred to the proposal being contrary to paragraph 71 of the Framework, which advises that plans should prevent inappropriate subdivision of gardens to create new dwellings that would be harmful to the character of an area. As this is related to policy formulation it is not directly relevant to this appeal.

Living conditions

9. The proposed dwelling would be located close to the rear elevation of No. 27 and on significantly higher ground levels. The proposed drawings show the height of the raised parking area to the side of the proposed dwelling would be just below No.27's ridge height, with No.27's rear garden occupying this relatively short intervening space. Whilst there are no first-floor windows on the rear of No. 27, there are ground floor windows which are significantly lower than the raised levels of the proposed dwelling and its parking area.
10. Even though No. 27's retained garden would be tiered, there would be substantial levels changes between the rear elevation of No. 27 and the proposed dwelling, along with numerous steps to either side of No. 27's retained rear garden area. The proposed raised car parking area for the new dwelling, would be very dominant for occupiers of No. 27 in terms of their outlook from within the rear of the property and from within their rear garden.

This, together with the arrangement of steps and close boarded fencing, would result in an enclosing and domineering effect that would be harmful for the outlook of the occupiers of No. 27.

11. In this case, I am not persuaded that planting could be used as a way of mitigating the identified harm above, particularly given the significant change in ground levels and the proposed close arrangement of the properties.
12. In respect of all other surrounding occupiers, I am content that in view of the respective separation and orientation of the proposed dwelling, its siting, scale and window positions, along with associated movements to and from the site would not be harmful to their living conditions. It is noteworthy that the Council also found similarly.
13. To conclude, the proposal would be harmful to the outlook and living conditions of the occupiers of No. 27 Old Village Road contrary to the requirements of Policy ENV1 of the ELP, which amongst other things, seeks to protect the amenity of existing properties. I also find the proposal to conflict with paragraph 130 of the Framework which seeks high standards of amenity for existing and future users.

Other Matters

14. I note that the appellant intends that the new dwelling would be occupied by family members and that mutual support would be provided as a result. Although I have limited information before me, there is a reasonable likelihood that at least one of the intended occupiers may share a protected characteristic.
15. In light of this, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had due regard to the Human Rights Act 1998 (HRA) which at Article 8 requires that decisions ensure respect for private and family life and the home and is engaged in this case. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
16. I recognise the paramount importance of the family living close together in a stable and unchanged environment as a primary consideration, and that the proposal could address the family's needs now and in the future not just for the individual occupants, but the family unit as a whole. The provision of a new dwelling close to family would be a significant benefit to the occupiers and these considerations weigh in favour of the proposal.
17. However, there is no mechanism before me tying the respective dwellings together. As such, there is no certainty that this benefit would be realised, particularly if either the host, or the new dwelling were occupied by non-family members. Furthermore, it is likely that these benefits could be accrued by other development upon the site without harm being caused to the character and appearance of the area or to the living conditions of the occupiers of No 27. Consequently, these matters weigh against the proposal.

18. If planning permission were to be refused, the appellant and her family would continue to live in the property, but their family life would not be ideal for the child or the family unit. They would also have no certainty about the future. This would represent an interference with their home and family life and with their property. However, there is insufficient evidence in respect of alternative schemes to consider that the factors which weigh in favour of the appeal scheme outweigh the significant harm that would be caused by the development to the character and appearance of the area and to the living conditions of the occupiers of the host property. Having regard to the legitimate and well-established planning policy aims in respect of character and appearance and living conditions, a refusal of permission would be proportionate and necessary. It would not unacceptably violate the family's rights under the HRA. The protection of the public interest cannot be achieved by means that are less interfering of their rights.
19. It is noted that the site could in principle be adequately drained; that planting could be used for privacy purposes; the proposal replaces an existing garage in a similar siting and scale; that amendments have been made to address the previous reasons for refusal relating to its size, scale and amenity space; including the amount of engineering works; that no retaining walls are required; it could be built on a strip foundation; and that the site is already used as domestic garden. However, these are neutral matters that neither weigh in favour or against the proposal.
20. The appellant has stated that the Council would have supported the proposal as an annex and that would have had a similar effect upon the character and appearance of the area. I have no details in respect of this, accordingly, this argument has not persuaded me to reach a different conclusion on the appeal.
21. In support of their appeal, the appellant has referred me to development nearby. Two of these sites are in Little Weighton; five dwellings stated to be at 26 Old Village Road; a recent approval for ten holiday homes on the western side of the village, and a development of five houses between Saunders Croft and West End in the nearby village of Walkington.
22. The five dwellings at No. 26 Old Village Road are in a courtyard with the front of these properties orientated to face into the courtyard, which is served by a vehicular access from Old Village Road. This development, whilst having smaller garden areas, is behind existing properties but it is not surrounded by rear gardens of other properties and there are views of some of their front elevations from Old Village Road. The holiday homes development is in a different part of the village near other holiday lodges. This type of development is distinctly different to residential development and this arrangement of holiday lodges is not comparable to this appeal proposal. These examples in Little Weighton are different to the appeal proposal and do not alter my conclusions.
23. The development of housing in Walkington was for five houses, two fronting existing roads and three dwellings behind in a row served by an access onto West End. I note the character and pattern of housing in Walkington is different to that Little Weighton with different plots sizes and arrangement of properties relative to the road. Furthermore, whilst engineering works, sub levels, and sunken gardens have been used along with dwellings having a lower ground level on some elevations, those levels changes are much less than those on the

appeal site and over a longer area. I am satisfied that the example in the nearby village of Walkington, is not entirely comparable to the appeal proposal and it has not persuaded me to conclude differently on this appeal.

24. I note the appellant's comments about the Local Planning Authority's handling of the planning application, however that is a matter between the parties and is not relevant to the determination of the appeal.

Conclusion

25. For the reasons outlined above, the proposed development conflicts with the development plan taken as a whole. There are no other considerations which indicate a decision other than in accordance with the development plan. I therefore dismiss the appeal.

A Hunter

INSPECTOR