



Appeal Decision

Site visit made on 13 July 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Appeal Ref: APP/C2741/W/23/3317004

The Sleeping Bear, 4 Government House Road, York YO30 6LU

- 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 Rachel Gilbert-Cornish against the decision of City of York Council.
 - The application Ref 22/02198/FUL, dated 20 October 2022, was refused by notice dated 9 February 2023.
 - The development proposed is described on the application form as a change of use of land from adopted highway to a private access in order to finalise home renovations started in 2020. We would like to restore our private garden to include our private drive, which would be marked by the installation of entrance gates at the mouth of the drive.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development as it is shown on the planning application form includes superfluous commentary. For ease of reference, I have taken the development for which planning permission is sought.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of residents of 5 Government House Road.

Reasons

4. The appeal site comprises part of the adopted highway at Government House Road, which is a cul de sac of residential properties. The highway that is the subject of the appeal is a spur road that extends from one corner of the cul de sac turning head. The evidence confirms that the whole of Government House Road was formally adopted in 2021. The proposal would comprise the change of use of the adopted highway to a private drive for no. 4 and the erection of a two metre high close boarded timber gate across the width of the road.
5. The road in question provides vehicle access to the dwelling at 4 Government House Road as well as to an outbuilding that sits at the end of the road which belongs to the residents of no. 5. The submitted evidence confirms that residents of no. 5 use the road to access their outbuilding. I appreciate that there is not a dropped kerb at the point where the outbuilding faces the road and that there may be access points from within the garden of no. 5. Nevertheless, from what I observed during my site visit, there would not be

another means to directly access the outbuilding by a vehicle other than along the road.

6. The proposal would mean that residents of no. 5 would not be able to use the road to access their outbuilding. Being unable to access the outbuilding by a vehicle would likely restrict the use that it could be put to. Consequently, the proposal would be detrimental to the residents' use of their property that they could reasonably expect to enjoy.
7. I note the appellant's contention that residential amenity impact relates to a development's effect on a neighbour's outlook, privacy, sunlight/daylight and any noise and disruption likely to arise. However, my attention has not been drawn to any definition that restricts a consideration of residential amenity to these matters.
8. I therefore conclude that the proposal would unacceptably harm the living conditions of residents of 5 Government House Road with regard to access and the use and enjoyment of their property. In reaching this conclusion, I have confined my consideration to the planning merits of the case.
9. Accordingly, the proposal would conflict with paragraphs 110 b) and 130 f) of the National Planning Policy Framework. Amongst other matters, these require that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users; and that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

10. The design of the gates and the proposed materials would be in keeping with the character and appearance of the area and I appreciate the appellant's desire to secure a more private outdoor amenity space. However, neither of these matters outweigh the harm that I have identified.
11. I note that the appellant has initiated the process to stop up this part of the adopted highway. Nevertheless, there is no clear evidence before me to confirm that this process has been completed.

Conclusion

12. For the reasons given above, having considered the relevant material considerations, I conclude that the appeal should be dismissed.

F Wilkinson BSc (Hons), MRTPI

INSPECTOR