



Appeal Decision

Site visit made on 23 April 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2024

Appeal Ref: APP/J0540/W/23/3331317

135 Eaglethorpe, New England, Peterborough PE1 3RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Kieran Ibrahim against the decision of Peterborough City Council.
 - The application Ref is 23/00840/OUT.
 - The development proposed is described as proposed domestic dwelling in rear garden and additional land owned by the applicant.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties have provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The application has been submitted in outline form, with all matters reserved. I have dealt with the appeal on this basis and therefore treated drawing no BA/2023/EG/102 Site Plan as Existing & Proposed as indicative only in so far as establishing whether it would be possible, in principle, to erect a dwelling on the site.
4. The appellant's statement refers to amending the red-line boundary to show access to the public highway. The Procedural Guide for Planning Appeals is clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. Under the principles established by the Courts in *Holborn Studios Ltd*¹ to consider such a modification would be a substantive difference and procedurally could prejudice interested parties by depriving those who should have been consulted on the change the opportunity of such consultation. For this reason, I have determined the appeal on the basis of the plans that were before the Council when it made its decision.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWCH 2823 (Admin)

5. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

6. The main issues are:
- i) the effect of the proposed development on the character and appearance of the area;
 - ii) whether the proposed development would provide acceptable living conditions for existing and future occupiers; and
 - iii) whether the proposal would be provided with an appropriate means of access and parking.

Reasons

Character and appearance

7. The appeal site forms part of the garden of No 135 Eaglethorpe and part of an adjoining area of hardstanding that lies adjacent to a block of garages. The appeal site lies within a residential area, where dwellings are predominantly two-storey terraced and semi-detached properties. Whilst there is variation in design there is consistency in that properties within the locality follow established building lines and generally have a presence within the street-scene, with narrow rear gardens, which creates a strong pattern of development.
8. The site would be an irregular shape compared to the narrow and deeper plots existing in the area. The introduction of a dwelling to the rear of existing properties would be a distinct contrast to the existing terraced blocks that inform the immediate context of the site. Accordingly, it would not have any particular visual or physical affinity with the existing pattern of development.
9. Whilst there are single storey garages proximate to the appeal site, set back from the cul-de-sac, these are ancillary structures that are not comparable to the appeal proposal. A dwelling would have a greater prominence than the existing garages adjacent to the site. Consequently, a dwelling would be an incongruous form of development that would conflict with the prevailing layout of housing along Eaglethorpe.
10. In its reason for refusal the Council stated that the appearance of the dwelling would harm the character and appearance of the area. However, taking this consideration in isolation, the design of the proposed development is not before me and could be secured at the reserved matters stage to reflect local vernacular. This, however, does not overcome the harm I have identified in respect of the prevailing pattern of development.
11. I acknowledge that the National Design Guide advocates that increased densities in suburban locations, such as this, can be appropriate. However, one of the ten characteristics of well-designed places is context. As outlined above,

having regard to the site context, I consider that the siting of a dwelling would be detrimental to the character of the surrounding area.

12. For the reasons stated above, I conclude that the proposal would harm the character and appearance of the area. As such it would fail to accord with Policy LP16 of the Peterborough Local Plan adopted 2019 (LP) insofar as it requires that development respects the context of a site, responding to patterns of development and features that contribute positively to local character and distinctiveness. Similarly, it would be contrary to the Framework which requires development to be sympathetic to local character and maintain a strong sense of place.

Living conditions

13. The appeal site lies immediately adjacent to the rear garden of No 135 and adjoins, in part, the boundary with No 136. Both properties have relatively short rear gardens.
14. The application is submitted in outline with all matters reserved. Whist scale is a reserved matter, the planning application form refers to a 3-bed dwelling. The indicative plan, however, does not demonstrate that a 3-bed dwelling could be accommodated within a single storey form of development. Accordingly, in order to accommodate a 3-bed dwelling an increase in height would likely need to be considered.

Existing dwelling

15. Noting that scale and layout are reserved, when considering whether reasonable levels of privacy could be achieved, owing to the irregular shape of the site, the proximate relationship with adjoining properties and the proposed amount of development, there is no evidence before me to demonstrate that a 3-bed dwelling could be accommodated on the site in a manner that would not cause harm to the living conditions of the occupiers of the host property (No 135) by reason of overlooking or appearing overbearing.
16. Concerns regarding overlooking could be mitigated to an extent by limiting the scale of the build to single storey and design details, such as window placement and landscaping, would be considered at reserved matters. However, given the parameters of the site I cannot be satisfied that a 3-bed dwelling, as proposed, could be accommodated on the site in accordance with local plan policy.

Proposed dwelling

17. The rear elevation of Nos 135 and 136 would be proximate to the boundary of the appeal site. Overlooking of the appeal site from the first-floor rear windows of these properties would be likely to diminish the living conditions of the future occupiers of the proposed dwelling. However, as layout is a reserved matter, I am satisfied that the design of the proposed dwelling could be secured at reserved matters to overcome these concerns.
18. The appeal property is located within an urban area where occupiers of existing dwellings experience a degree of mutual overlooking between properties and their respective gardens, however, this does not justify the harms identified. The use of landscaping can rarely be relied upon to screen the development in the long term with regards to its maintenance, retention and survival.

19. I am satisfied that No 134 is located sufficiently far away from the appeal site that the living conditions of the existing occupiers of this property would not be materially diminished. It is noted that the current occupiers of No 136 have not objected to the development. However, I must take into account the lifetime of the proposed development and its effect on both current and future occupiers.
20. For the above reasons, I cannot be satisfied that a dwelling could be accommodated on the site without harming the living conditions of the occupiers of existing dwellings. Accordingly, I find conflict with Policy LP17 of the LP where it seeks to safeguard living conditions. Similarly, I find conflict with the Framework where it seeks a good standard of amenity for existing and future occupants of land and buildings.

Highway matters

21. Although access is a reserved matter the red-line application plan does not show the appeal site to be connected to the public highway. The Planning Practice Guidance stipulates that: *"The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings)"*.²
22. I am mindful that the scheme would need a section of access road in order for the proposed development to function. Accordingly, the submitted location plan fails to identify all land necessary for access to the site from a public highway. Reliance upon a Grampian condition to secure access, particularly when ownership of the intervening land has not been proven, is not adequate. I therefore cannot be satisfied that the proposal would have an appropriate access.
23. The indicative plan seeks to demonstrate that acceptable parking provision for the proposed dwelling could be provided, precise details of which could be advanced at the reserved matters stage. This, however, does not detract from my concern regarding the ability of the plot to accommodate a dwelling that would not harm living conditions, and that a revised layout may affect the ability of the site to accommodate the required parking and turning provision.
24. At my site visit I observed the host dwelling had informal parking to the front of the existing house and garage. Whilst this may not necessarily meet the Council's technical standards, nevertheless the areas provide meaningful parking provision.
25. Representations indicate that the proposal would lead to the loss of parking for existing residents. However, there is no evidence before me that the appeal site provides formal parking for residents.
26. It is accepted that vehicle movements associated with an additional dwelling would be modest and that the site is located within a sustainable location, with access to alternatives modes of transport other than the private motor vehicle. This, however, does not overcome the harms identified.
27. For the reasons outlined above, I cannot be satisfied that the proposal would provide for an appropriate means of access and parking. In this regard the

² Paragraph: 024 Reference ID: 14-024-20140306

proposal would be contrary to the relevant provisions of Policy LP13 of the LP which requires the provision of a safe access and parking.

Other Matters

28. I note the appellant's assertion that they have taken stewardship of the land and have consequently stopped anti-social behaviour associated with it. I have no evidence before me to contradict this assertion. However, I am not satisfied that the proposed dwelling is the only means of securing the land from anti-social behaviour and its long-term maintenance. In any event, this small benefit would not be sufficient to overcome my concern regarding the harm arising from the proposal.
29. My attention has been drawn to other developments at Nos 78 and 136 St. Paul's Road which the appellant submits are comparable to the appeal proposal. Despite their proximity, from the limited information available to me, and as observed at my site visit, there are fundamental differences to the appeal before me including the position and separation distances in relation to surrounding dwellings. As such, their context differs significantly, and therefore does not lead me to a different view in this case. In any event, I have assessed the appeal on its own merits.
30. The appellant states that the proposed dwelling is to be a self-build project, something to which the Government attaches importance. Although I have no reason to doubt this is the appellant's intention I have not been provided with any details as to how it would be secured as a self-build dwelling were the appeal to be allowed. Furthermore, from the evidence before me the demand for self-build and custom housing is being met by the Council. I therefore attach limited weight to this matter.
31. There is no dispute between the parties that the principle of development is acceptable in this sustainable location. The proposed development would make a small windfall contribution to the delivery of housing for the area. I acknowledge that the Framework is supportive of small and medium sized sites, such as this site, which can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The development would give rise to some economic benefits during the construction phase and provide limited support to local services through additional consumer spending. Given the Council's ability to demonstrate adequate housing land supply is not contested whilst these would be benefits, given the scale of the proposed development these benefits would be modest and would not outweigh the harm I have identified.
32. Although no objections have been raised by technical consultees, this is a neutral matter which neither weighs in favour or against the proposal.
33. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. In this case, as I find conflict with the up-to-date policies of the development plan with regards to character and appearance, living conditions and highways matters the proposed development would not benefit from the presumption in favour of sustainable development.

Conclusion

34. I have found conflict with the development plan taken as a whole. There are no other considerations, including the Framework, that outweigh this conflict. For the reasons given above, I conclude that the appeal should be dismissed.

R Gee

INSPECTOR