



Appeal Decision

Site visit made on 1 November 2017

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th December 2017

Appeal Ref: APP/V2255/W/17/3177002

100 Station Road, Teynham, ME9 9TB

- 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 & Mrs D Hogben against the decision of Swale Borough Council.
 - The application Ref 16/506288/OUT, dated 8 August 2016, was refused by notice dated 19 December 2016
 - The development proposed is residential development with all matters reserved.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs D Hogben against Swale Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The effect of the development on
 - the character and appearance of the area, and
 - the living conditions of occupants of surrounding residential buildings, with particular regard to whether or not there would be an unacceptable overbearing effect, loss of light or privacy arising from the proposed development.

Procedural Matters

4. Outline planning permission is sought, with all matters reserved. Nevertheless, a layout plan and details of the dwelling were submitted with the planning application. These were amended during the course of the application and both sets of plans were taken in to account by the Council in its decision as an illustration of how the future development of the site may be carried out. I shall also have regard to both sets of plans, on the same basis, in determining this appeal.
5. Following the decision the Council have adopted the Swale Borough Local Plan 'Bearing Fruits' 2031 ("Local Plan"). The Council have confirmed that policies CP4 and DM14 are the Local Plan policies relevant to the main issues in the appeal. Policies E1 and E19 of the Swale Borough Local Plan 2008 are no longer

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part of the development plan and have no weight. I have dealt with the appeal accordingly. The appellant has had the opportunity to comment on the Local Plan policies in the course of this appeal.

Reasons

Character and Appearance

6. No.100 is located within a group of semi-detached dwellings along Station Road. I observed that these buildings have a uniform layout and appearance, and pattern of spacing between them. Amber Close is one of a number of cul-de-sacs that lead off Station Road, exhibiting a similar arrangement of semi-detached pairs. I observed that, in common with other corner properties within the group, there is a substantial garden area between the side elevation of No.100 and the edge of Amber Close which forms its north eastern boundary.
7. This arrangement means that the respective side elevation of the corner properties facing Station Road broadly align with the mass of the buildings facing the cul-de-sacs immediately to their rear. This appears to be a feature of the layout of this part of the housing estate. It leaves significant visual space around the respective corners, which consequently provides an open setting for the cul-de-sacs behind, including Amber Close. Whilst some of the equivalent corner properties had been extended in to their side garden areas, these extensions were not of a bulk or scale that had diminished the prevailing relationship between the corner properties and the respective roads to which they adjoin. Whilst these garden areas were enclosed with various fences and walls, such boundary treatments had not diminished the open character of the respective garden areas.
8. The partitioning of the side garden area in to a separate plot, together with the construction of a dwelling within it, as shown on the illustrative plans, would therefore depart from the prevailing pattern of development found within this group of buildings. It would infill an existing undeveloped area on the corner, thereby diminishing the open setting of Amber Close in relation to Station Road. This loss of visual openness would be to the detriment to the prevailing symmetry exhibited by the group of buildings within which the development would be located.
9. Whilst the appellant contends that the large side garden to No.100 represents the low density estate planning of the era in which it was built, for the reasons set out above I consider that the undeveloped space performs an important role in providing an open setting to Amber Close. The total plot size of the proposed dwelling could be similar to others on the estate, however, this would not justify the proposal given the effect the development would have on its surroundings.
10. I therefore conclude the development would result in harm to the character and appearance of the area. The development conflicts with policy CP4 of the Local Plan and paragraph 58 of the National Planning Policy Framework (the Framework) which require new development to be appropriate to its surroundings, and to promote and reinforce local distinctiveness. In coming to this view I have had regard to both sets of illustrative plans submitted. Whilst the application is in outline with all matters reserved, these plans fail to provide evidence that an acceptable scheme could be advanced at the reserved matters stage.

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Living conditions.

11. Concerns are raised by the Council and third parties that the bulk of the building would be overbearing in relation to the surrounding properties to the rear along Amber Close, and would lead to a loss of light and overlooking. However, both sets of illustrative plans demonstrate that the bulk of the new building could be aligned with No.100 and set a similar distance away from the respective properties. Were this to occur, the physical bulk of the building would be located a substantial distance away from the nearby properties on Amber Close. In consequence, it would not appear overbearing from these locations, nor would it result in any significant loss of light to these residential properties.
12. I observed that there is already an environment of mutual overlooking between the properties facing on to Amber Close. In this context, subject to the building being sited an acceptable distance away from the common boundary, any additional overlooking from the proposed development would not result in material harm. The site is set well away from the respective garden area and side elevation of No.102 Station Road, across Amber Close, and the development would not therefore appear overbearing, lead to any significant loss of light, or otherwise result in an unacceptable loss of privacy in respect of this residential property.
13. I therefore conclude that there would be no unacceptable harm to the living conditions of the occupants of existing residential buildings through any overbearing effect, loss of light or privacy as a consequence of the proposed development. There is no conflict with policy DM14 of the Local Plan which requires new development to cause no significant harm to amenity and other sensitive uses or areas.

Other Matters.

14. The illustrative plans show that two off street parking spaces would be provided for the new dwelling, together with two further spaces for No.100. Concern is expressed regarding the effect of the development on the demand for parking within the local area, and highway safety given the possible access arrangements associated with the proposed dwelling. In the event that the principle of development is found to be acceptable, access to and from the site would be a reserved matter, at which point the highway safety implications of any proposed access could be given full consideration. In broad terms however, I observed that Station Road and Amber Close are residential streets that do not experience high volumes of traffic. On the evidence before me, I consider that they could in principle safely absorb any additional on street parking demand and vehicular movements associated with one additional residential unit. The enforcement of existing rules relating to parking along Amber Close is a matter for the relevant highway authority.
15. The proposed development would deliver a new family sized residential dwelling which would meet a housing demand in the local area. It would be located in an existing village with a wide range of local services and public transport links. It would create jobs within the construction process, and future residents are likely to use and contribute to local businesses and services as well as raising tax revenue for the Council. However, the matters weighing in favour of the scheme, including the scope of possible planning conditions, do not outweigh the harm I have identified in relation to the character and

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appearance of the area, and the conflict with the development plan in this regard.

16. For the reasons set out above, I have found that the development would conflict with up to date development plan policies and the relevant parts of the Framework on the first main issue in this appeal. I have had regard to the presumption in favour of sustainable development, as set out in the Framework, in dealing with this appeal.

Conclusion

17. I have found that the proposed development would be acceptable in terms of its effect on the living conditions of the occupants of surrounding residential buildings. However, it would result in unacceptable harm to the character and appearance of the area. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

Neil Holdsworth

INSPECTOR



Costs Decision

Site visit made on 1 November 2017

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th December 2017

**Costs application in relation to Appeal Ref: APP/V2255/W/17/3177002
100 Station Road, Teynham, ME9 9TB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs D Hogben for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for residential development with all matters reserved.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance ("PPG") advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG advises that local planning authorities are at risk of an award of costs if they; prevent or delay development which should clearly be permitted having regard to the development plan, national policy and any other material considerations; fail to produce evidence to substantiate each reason for refusal on appeal, and if they make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or refuse planning permission on a planning ground capable of being dealt with by conditions where such conditions would enable the development to go ahead.
3. The appellant considers that the Council failed to provide evidence to support its position that the proposed development would harm the character and appearance of the area and the living conditions of the occupiers of surrounding buildings. The reason for refusal is considered to be vague, generalised and unsubstantiated; and rooted in concerns that could be overcome by planning conditions.
4. However, the single reason for refusal does clearly set out the two issues which form the basis of the Council's objections to the development. Furthermore, it identifies the policies within the development plan applicable at the time the decision was taken, and where there was found to be conflict. My decision makes it clear that I agree with Council Members decision on the effect of the development on the character and appearance of the area.

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5. Whilst brief, the information provided by the Council in its decision notice is sufficient to understand the basis of its concern with the proposal on the two main issues in the appeal. On the first main issue, its appeal statement elaborates on the reason for refusal by identifying that the proposal would "result in the loss of the open aspect of Amber Close". With regard to the second main issue, concerns are set out to the effect that the development would have an "overbearing effect on the area".
6. The application was submitted in outline with all matters reserved. Whilst indicative plans were submitted, the final appearance of the building was not known at the time the decision was taken. As such, criticism of the development would inevitably focus on the principle of development. Provision of a detailed analysis of the prevailing pattern of development, or other illustrative material explaining its position on the two main issues is not essential to explain its reason for refusal. Whilst it was brief, I consider that the Council's position was nonetheless set out with sufficient clarity in its decision notice and appeal statement.
7. The report to planning committee suggested a number of planning conditions that would, in the officer's view, make the development acceptable in planning terms. However, it is clear that Members took a different view on the principle of development, which led to the refusal of planning permission. The nature of planning conditions is such that they rely on the acceptance of the principle of development, which was not apparent in this case.
8. In its appeal statement the Council draw attention to highway safety concerns expressed by Members at the committee meeting. This was not identified as a reason for refusal. The Council have clarified that this was an account of the discussion that took place between Members at the committee meeting, and not an attempt to introduce a further reason for refusal at the appeal stage.
9. Members do not have to accept the advice of officers, and in this instance a decision was made that the proposed development would be unacceptable. The reason for refusal related to valid planning reasons which were articulated sufficiently for the purposes of participating in the appeal. In consequence, I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

Neil Holdsworth

INSPECTOR