

Appeal Decision

Site visit made on 28 March 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 3 April 2017

Appeal Ref: APP/A2525/W/16/3163659

Rear of Tweenus, 17 Cobgate, Whaplode, Spalding, PE12 6TD

- 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 and Mrs R Fenwick against the decision of South Holland District Council.
 - The application Ref H23-0707-16, dated 18 July 2016, was refused by notice dated 13 September 2016.
 - The development proposed is a Residential Development (Single Building Plot).
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Decision

1. The appeal is allowed and outline planning permission is granted for a Residential Development (Single Building Plot) at the Rear of Tweenus, 17 Cobgate, Whaplode, Spalding, PE12 6TD in accordance with the terms of the application, Ref H23-0707-16, dated 18 July 2016, subject to the conditions in the attached schedule.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration. Indicative plans have been submitted which have formed part of my consideration of this appeal.

Main Issues

3. The main issues are the effect of the proposed development on: (i) the character and appearance of the area; (ii) the living conditions of the occupants of 15, 17 and 17a Cobgate, with regards to privacy, noise and disturbance.

Reasons

Approach to the decision

4. The Council accept that they are presently unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 47 of the National Planning Policy Framework (the Framework). Thus, paragraph 49 of the Framework is engaged and as a result relevant policies relating to the supply of housing should be considered to be out-of-date. However as saved Policies SG14 and SG17 of The South Holland Local Plan 2006 (Local Plan) are not relevant to the supply of housing, I attach them full weight.
 5. Although the appellant refers to the emerging *South East Lincolnshire Local Plan*, this plan is not yet part of the Development Plan. Furthermore neither
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the Council's decision notice nor statement of case refer to any of its policies. Thus, I have assessed the proposal against the saved Local Plan policies and the Framework which is an important material consideration.

Character and appearance

6. The appeal site lies in the village of Whaplode which is a Group Centre in the Local Plan. The site serves as part of the rear garden to 'Tweenus' (No 17 Cobgate) which is a detached bungalow set within a spacious environment. A Tree of Heaven, protected under the Whaplode Tree Preservation Order No 5 2004, is in the south-east corner of the site.
7. Residential dwellings of varying type, form, scale, design and age adjoin the site. These also display a range of materials and finishes. To the rear, beyond a brick wall is 17a Cobgate. This detached dwelling is accessed along a private drive on the western side of Tweenus, behind a brick wall. To the east of the site, beyond a timber fence are two storey detached and semi-detached dwellings which form part of a development on Sandringham Close. Either side of Tweenus facing the road are 15 and 19 Cobgate which are detached bungalows. A detached pitched roof garage is to the side and rear of No 15. This lies next to boundary with Tweenus.
8. The Council consider that the site is not brownfield and that the proposal is a backland instead of frontage infill. Nevertheless, the Council accept the site is in a sustainable location which would accord with paragraph 55 of the Framework. In any event, Local Plan Policy SG14 explains that "*new development should be designed to ensure that it makes a positive contribution to the architectural and visual quality of its surroundings.*" In assessing new development, matters such as local distinctiveness, the pattern of development in the locality and the relationship of the development to the character, form and scale of existing buildings will also be considered.
9. Clearly the proposal would not play an active part of the street scene of Cobgate. However No 17a, which itself was once part of Tweenus, does not have an active role within the street scene of Cobgate either. The proposal would be to the rear of Tweenus and given its scale it would be a windfall site. The site is not, despite the Council's view, rural in character. I shall now turn to the scheme's effect on the street scene and pattern of development, having regard to local character and distinctiveness.
10. Despite the indicative plans representing the appellants preferred layout, the design, appearance, scale and massing of the proposal are reserved for future consideration. Notwithstanding this, I consider that this infill development would not, due to its siting behind Tweenus, significantly affect the street scene of Cobgate. The existing driveway next to No 15 would be used to serve the property, which would not be dissimilar to the arrangement serving No 17a. Although concerns are raised about a cramped form of development, the appeal site would be larger than adjacent dwellings on Sandringham Close and the proposal would use the land efficiently. While the proposal would lie between Tweenus and No 17a, this arrangement would not unduly affect the spaciousness of the site or the wider area, given Tweenus and No 17a would keep gardens of sufficient size and a dwelling could fit into the site whilst retaining space to each boundary.
11. I note the recent planning permission at 'Fen Willow' 23 Cobgate would directly

address and access Cobgate Close¹. While in this regard it is not a comparable scheme, the appeal site would however afford a more spacious environment compared to this scheme. The proposal would therefore ensure, having regard to paragraphs 53 and 58 of the Framework, that the area's distinctiveness and functionality is upheld, as it would respond to local character so that the development creates a strong sense of place, while ensuring the site's optimum potential is used.

12. For these reasons, on this issue, I conclude that the proposal would accord with Local Plan Policies SG14 and HS6, together with paragraphs 53 and 58 of the Framework. Jointly these, among other things, seek new development to make a positive contribution to its surroundings, local distinctiveness, the pattern of development in the locality and the relationship of the development to the character, form and scale of existing buildings.

Living conditions

13. The plans show that the existing garage to the side of Tweenus would be demolished to form a vehicular access to the site. As a result, the vehicular access would extend in-between the flank elevations of Nos 15 and 17. The latter would be left with a blank flank elevation next to the access.
14. In terms of No 15, the flank elevation is, except for a single pane window, blank and set away from the boundary with Tweenus due to the driveway that leads to the detached garage. The main windows in No 15 are to the front and rear. Tweenus also has large window openings to the front and rear. The latter serves as the main bedroom and has a rear outlook.
15. Vehicles entering and leaving the appeal site would lead to noise and disturbance. The material effect of this would be felt by the occupants of No 17 rather than No 15, who would remain a reasonable distance away. The detached garage of No 15 would also help shield rear facing windows in this property. I am also mindful of the current use of the driveway which leads to the garage and across the front elevation of Tweenus and any noise and disturbance would be typical of a single dwelling in the area. Furthermore, the appellants' suggest that a new 2 metre high boundary fence could be erected next to the access. I note the Council's suggested condition regarding details of boundary treatments which has the potential to mitigate for any effects of vehicle movements felt within the rear bedroom in No 17. So, while noise and disturbance would arise due to the site's constraints, this would not cause a material harm to the living conditions of Nos 15 and 17.
16. Turning now to noise and disturbance associated with activities near to the dwelling itself. The site lies in an area dominated by residential dwellings. While I note the indicative plans show a layout which places the lounge doors to the rear of the proposed dwelling, this arrangement is not fixed and could very well change through a reserved matters application. This would be subject of public consultation. Even so, the plot size would allow for a reasonable degree of separation to nearby properties and the presence of the solid brick walls and fences along the site's boundaries would also help in limiting noise spilling out from the dwelling. Accordingly, I do not consider the proposal would result in a material harm to the living conditions occupants of Nos 15, 17 and 17a, in terms of noise and disturbance.

¹ Council Application Ref: H23-0163-16

17. With regards to privacy, the closest part of No 17a to the appeal site is a blank flank elevation. Although dormer windows are in the west-facing roof plane, their position and orientation means that the occupants would not endure a loss of privacy in terms of these rooms. The tall solid brick boundary wall would also screen the ground floor of No 17a. While views to and from the north facing first floor windows in No 17a is likely to occur, these windows are a considerable distance from the boundary. There is also no reason for me to consider that a dwelling could not be designed to make sure it would not give rise to an undue loss of privacy.
18. Accordingly, on this issue, I conclude that the proposal would comply with Local Plan Policies SG14 and SG17 which together seek to ensure development does not cause a material harm to residents living conditions, in terms of privacy, potential noise nuisance from vehicular activity and general disturbance.

Other Matters

19. Despite concerns about highway safety, I noted that there are good visibility splays in either direction along Cobgate and that the proposal would use an existing access point onto the highway. With regards to points about the scheme at No 23, my findings relate to the planning merits of the proposal which would deliver an extra house in the district that would also bring social and economic benefits linked to its location near to facilities and services.
20. I am aware of the position of a detached garage forward of Tweenus in terms of its potential effect on the character and appearance of the street scene. However procedure² requires the application to be accompanied by *a plan which identifies the land to which the application relates*. In this case, the red line boundary does not extend across the full width of the land in front of Tweenus where the detached garage may be sited. As a result, the garage lies on land not directly related to the proposed development.

Conclusion and Conditions

21. I have had regard to the Council's suggested conditions and the appellants' comments. A condition in respect of the approved plan is necessary in the interest of certainty. I have imposed a condition to make sure protective measures are put in place with regards to the protected tree in the interests of character and appearance and biodiversity. Conditions are necessary in the interests of the character and appearance of the area; the living conditions of neighbouring residents; biodiversity and flooding in terms of boundary treatments, landscaping, hard surfacing, levels and means of sewage and surface water disposal. I have not imposed a condition concerning works to the protected tree, as this would duplicate the controls elsewhere and permission would need to be sought for any such works first in any event.
22. For the reasons set out above, I conclude that the appeal should succeed.

Andrew McGlone

INSPECTOR

² The Town and Country Planning (Development Management Procedure)(England) Order 2015, Part 3, Article 7(1(c)(i))

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission, and the development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2980-16-01, except in respect of the detached garage and re-configured drive shown on this plan.
- 3) Notwithstanding the details accompanying the application, no development shall take place without details being submitted and approved by the Local Planning Authority for the following matters:
 - i) the layout, scale and external appearance of building(s), including a schedule of external materials to be used;
 - ii) the means of access to the site;
 - iii) the landscaping of the site;
 - iv) the means of sewage and surface water disposal;
 - v) the existing and proposed site levels and floor levels of the buildings and hard surfaced areas.
- 4) Before the commencement of the development hereby permitted, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site indicating, the number, species, heights of planting and positions of all the trees, together with details of post-planting maintenance. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Before the commencement of development hereby permitted, full details of boundary treatment /screening, including type, materials and height, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the dwelling is brought into use and thereafter retained.
- 6) The existing tree in the south-eastern corner of the site shall be protected during construction work as follows :
 - i) chestnut pale or similar fencing 1.5 metres in height shall be provided around the tree before development is commenced at a minimum distance from the trunk equal to the spread of the crown of the tree. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made.
 - ii) no burning of materials or other items shall take place within 3 metres of the crown spread of the tree;
 - iii) no services shall be routed under the spread of the crown of the tree.