
Appeal Decision

Site visit made on 5 September 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 6 October 2017

Appeal Ref: APP/A2525/W/17/3176758

37 Fleet Road, Holbeach, Spalding PE12 8LA

- 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 A Balch against the decision of South Holland District Council.
 - The application Ref H05-1160-16, dated 9 November 2016, was refused by notice dated 20 December 2016.
 - The development proposed is a house to the rear of 37 Fleet Road, Holbeach.
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Decision

1. The appeal is allowed and outline planning permission is granted for a proposed house at land to the rear of 37 Fleet Road, Holbeach, Spalding, Lincolnshire PE12 8LA in accordance with the terms of application Ref H05-1160-16, dated 9 November 2016, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The application was made in outline with all matters apart from access reserved for future determination. A drawing showing an indicative site layout was submitted with the application. I have had regard to this in the determination of this appeal.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - The effect on the living conditions of the future occupants of the proposed development and the occupants of neighbouring properties with particular regard to outlook and privacy.

Reasons

Character and appearance

4. The appeal site comprises part of the long and relatively narrow rear garden of No 37 Fleet Road which is bounded to the east by a residential development comprising of 19 dwellings that is under construction (Refs H05-0519-19 and H05-0163-17). Both the rear garden of the appeal site and the new residential

development are bounded to the north by a drain. To the west, the site is bounded by the property boundary of No 35 with an employment site located beyond.

5. Although this part of Fleet Road appears to have originally been characterised by ribbon development along the frontage both sides of the road, the construction of the 19 dwellings and relatively recent development of Chapman Mews to the rear of Nos 52 and 54, located on the opposite side of the road, has changed this character. In particular, the construction of the 19 dwellings will result in a relatively dense form of residential development extending from the road to the drain and forming the western boundary of the appeal site.
6. The indicative layout plan proposes a detached dwelling orientated in a west-east direction and two garages to serve the exiting property at No 37 and the proposed dwelling. Given the density and extent of new residential development being constructed adjacent to the site, the principle of residential development on the appeal site with curtilage extending to the drain would neither be incongruous nor appear at odds with the changing character of this part of the road.
7. Although the plot is relatively narrow, the indicative layout indicates that the site is capable of accommodating a detached dwelling with more than adequate areas of private amenity space located to the north and south. I note the appellant's calculation that the width of the plot exceeds that of 17 of the 19 dwellings on the adjacent site. Furthermore, there appears to be little difference in the relative width of the proposed plot and that of the individual units at Chapman Mews. As such, the width of the plot would not compromise a satisfactory layout from being achieved nor would it be at odds with the plot widths of other dwellings in the area.
8. The orientation of the proposed dwelling and its relationship with the host property would be similar to that which exists at Chapman Mews and Nos 52 and 54. Furthermore, as a consequence of the development in the immediate area, the retention of a long open rear garden at the appeal site would be at odds with the dense urban form of development and modest garden areas that will eventually exist on the land to the east.
9. Taking the above factors into account the proposed development would not cause significant harm to the character and appearance of the surrounding area. Consequently there would be no conflict with Saved Policy SG14 of the South Holland Local Plan (2006) (Local Plan). This policy, amongst other things, requires that new development should make a positive contribution to the visual quality of its surroundings taking into consideration its relationship to the character, form and scale of existing buildings nearby.

Living conditions

10. Although little evidence has been provided to support the extent which living conditions may be harmed as a consequence of proposed development, the site is sufficiently long to ensure an adequate separation distance can be maintained between proposed windows in the dwelling and the rear windows of Nos 35 and 37.
11. The indicative layout demonstrates that the extent of private amenity space that can be achieved would be adequate and in most cases exceed the extent

of private amenity space that is being provided at the units on the development to the east. As such, the proposal would have a building to plot ratio greater than that of the adjoining development currently being constructed to the east. It would therefore not constitute a cramped or contrived form of development nor would the plot size cause any demonstrable harm to the living conditions of the occupants of the proposed dwelling.

12. Given the outline nature of the proposal there would be adequate scope in the submission of reserved matters to ensure that the design of the dwelling has no windows that would overlook, or be overlooked from, the development to the east. As such, the proposed development would not result in a significant loss of privacy for the future occupants of the proposed dwelling or the adjacent development.
13. A large area of the existing garden at No 37 would be retained as amenity space. As such, the site would largely retain an open aspect. Taking this factor into account, and the depth of the rear gardens of the properties under construction, the future occupants of the dwellings to the east would still experience a relatively open aspect in views from the rear of the dwellings and gardens. Consequently, the proposal would not cause a loss of outlook of an extent that would significantly harm the living conditions of the future occupants of the dwellings to the east.
14. Given the above circumstances, the proposed development would not cause any demonstrable or significant harm to the living conditions of the future occupants of the proposed dwelling or of the units currently being constructed to the east. Consequently there would be no conflict with Saved Policy SG17 of the Local Plan. This policy, amongst other things, indicates that planning permission will not be granted for development that would cause harm to residential amenity taking into account overlooking and loss of privacy.

Other matters

15. I have taken into account the concerns of the owner of No 39 regarding ownership of the access. However, this is a private matter that has no material bearing on my assessment of the planning issues in this appeal. The granting of planning permission would not override any legal rights of access.

Conditions

16. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the National Planning Policy Framework (the Framework) and the guidance contained in the section on 'Use of Planning Conditions' in the Government's Planning Practice Guidance. As a result, I have amended some of them for clarity and to minimise the use of pre-commencement conditions.
17. In addition to the standard conditions for outline applications, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in so far as they relate to the means of access and management of flood risk. This is in the interests of certainty and to ensure that the proposed development can be safely undertaken and occupied.
18. In the interests of protecting the character and appearance of the surrounding area, I agree that conditions are necessary relating to the details of the landscaping scheme required to be submitted as a reserved matter, the

implementation of the approved landscaping scheme, details of boundary treatment and the design and positions of external boxes for gas and electricity supplies and of any gas flues and soil vent pipes.

19. In order to ensure that the development can be safely undertaken and occupied, a condition is necessary relating to the proposed floor level of the dwelling; a requirement that the dwelling shall be a minimum of two storeys; and the incorporation of flood resilient and resistant construction. In the interests of highway safety a condition is necessary to ensure that motor vehicles can turn within the site and can enter and leave the highway in a forward gear.
20. The Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Taking into account the advice provided in the Framework, I am not satisfied that the Council's suggested condition removing many householder rights is necessary as the reason provided does not represent a clear justification for doing so. Consequently, I have deleted the suggested condition.

Conclusion

21. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 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.
- 2) No development shall take place until details of the following matters (hereinafter called "the reserved matters") have been submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved:
 - i) The layout, scale and external appearance of building(s), including a schedule of external materials to be used;
 - ii) The landscaping of the site;
 - iii) The means of sewage and surface water disposal;
 - iv) The existing and proposed site levels and floor levels of the buildings and hard surfaced areas.
- 3) 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: SD16-036/1; SD16-036/DAS & Flood Risk Assessment (Prepared by Geoff Beel Consultancy – October 2016).
- 5) The submission of the reserved matters in relation to the landscaping of the site, as required by condition No 2 above, shall be accompanied by a scheme of landscaping and tree planting indicating, inter alia, the number, species, heights on planting and positions of all proposed trees and shrubs in respect of the land to which that application relates, together with details of post-planting maintenance.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building 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.
- 7) Prior to its installation, details of the proposed boundary treatment, including a schedule of materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the local planning authority, and the details so approved shall be implemented in full before the development is first occupied and thereafter retained.
- 8) Prior to the commencement of development above foundation level, details of the design and positions of all external boxes for gas and electricity supplies and of any gas flues and soil vent pipes shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.

- 9) The development shall be carried out in accordance with the approved Flood Risk Assessment (dated October 2016) and in particular the following mitigation measures:
- i) Finished floor levels shall be set no lower than 300mm above existing ground level;
 - ii) The development shall be a minimum of two storeys;
 - iii) Flood resilient and resistant construction shall be incorporated throughout the development as stated in the Flood Risk Assessment.

The mitigation measures shall be fully implemented prior to occupation of the dwelling in accordance with the timing/phasing arrangements embodied within the Flood Risk Assessment, or within any other period as may subsequently be agreed in writing by the local planning authority.

- 10) Application for the approval of the 'Reserved Matters', shall provide for details of arrangements to enable a motor vehicle to turn within the site so that it can enter and leave the highway in a forward gear. The development shall thereafter be undertaken in accordance with the approved details.