
Appeal Decision

Site visit made on 28 June 2018

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 August 2018

Appeal Ref: APP/A2525/W/18/3197244

67 Chestnut Avenue, Spalding, Lincolnshire PE11 2LN

- 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 Mr and Mrs V Stoyanov against the decision of South Holland District Council.
 - The application Ref H16-0836-17, dated 3 August 2017, was refused by notice dated 26 October 2017.
 - The development proposed is residential development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the date of the Council's decision, the National Planning Policy Framework 2018 (the Framework) has been published and has effect. Local development plan policies that pre-date the publication should be given due weight according to the degree of consistency with the Framework.

Main Issues

3. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the area; and
 - b) the living conditions of the occupiers and future occupiers of the host property, the proposed dwelling and neighbouring buildings.

Reasons

4. The appeal site comprises an irregular shaped parcel of land forming part of a larger plot within the curtilage of the host property at No. 67 Chestnut Avenue. The proposal is for the construction of an 'L-shaped' two-storey, two-bedroom detached house with dual-pitched hipped roofs and integral garaging. The site would share boundaries with No. 27 Queens Road, properties on Culpins Close and a narrow cut-through public footpath that joins Chestnut Avenue and Queens Road (the cut-through). The site would also have a relatively short boundary with No. 67 but would share with it a drive and turning facility that would provide for vehicular access to Chestnut Avenue. The property would be erected close to the site boundary with the cut-through and No. 27 which would leave a small area for a garden between the dwelling and the properties

on Culpins Close. The main entrance to the site would be via a pedestrian access from the cut-through.

Character and Appearance

5. The glossary to the South Holland Local Plan 2006 (the Local Plan) defines backland development as 'development of land to the rear of existing properties, often using garden land'. While the location for the proposed dwelling would enable a building with a frontage on the cut-through it would nevertheless comprise land that is currently part of the garden to the rear of the host property and therefore would meet the definition of backland development for the purposes of local planning policy.
6. The surrounding area is residential in character with predominantly semi-detached dwellings with street frontages in reasonably generous plots. There are some more recent developments of detached houses, such as those in Culpins Close, with smaller plots but which still generally have street frontages. The massing and design of the proposed building would be in keeping with surrounding properties and reflect an amalgamation of the scale of the detached houses and the roof form of the semi-detached properties. However, there is no evidence before me of any backland development in the area and therefore the proposal would not be consistent with the prevailing character. In addition, I am unaware of any dwelling that does not have a main street frontage. The vehicular access onto Chestnut Avenue would be a shared facility and therefore not the frontage of the property, which would be off the cut-through. This would introduce an alien and incongruous form of development into the area.
7. While the curtilage of No. 67 is larger than the majority of its neighbours, the irregular shape and the need to provide for vehicular access would result in an unacceptably cramped and contrived form of development. The extent of the existing curtilage also introduces an element of space between properties that adds to the character of the locality. The scheme would result in a detrimental loss of this separation and an increased density in the built form in the area.
8. Therefore, the proposal would not accord with Policy SG14 of the Local Plan which seeks to ensure that developments make positive contributions to the visual quality of their surroundings including the existing pattern of development.

Living Conditions of Future Occupiers of the Proposed Dwelling

9. The proposed dwelling would have two forms of access, namely the shared vehicular access and the principal pedestrian access off the cut-through. The cut-through comprises a narrow path running between tall, dense hedges and approximately two-metre high close-boarded fencing. There is a single street-lamp roughly in the centre of the cut-through and approximately 40 metres from either entrance. The lamp is five metres or so from the location of the proposed access gate. The lamp would provide some light close to the pedestrian access but it is unlikely to emit sufficient to illuminate the cut-through from end to end. There is an additional lamp at the Chestnut Avenue entrance to the cut-through but this would be unlikely to offer significant illumination to the access gate due to the bend in the cut-through and the high boundary treatments either side of it. Street-lamps on Queens Road are some distance from the entrance to the cut-through. It is likely, especially in months

with fewer daylight hours, that the cut-through would be unappealing as a principal means of access. The shared drive would provide an alternative if entering the site from Chestnut Avenue but with the risk associated with sharing access with moving vehicles.

10. First-floor windows to habitable rooms in the proposed dwelling would look out towards the rear of surrounding properties in all directions which is likely to create a sense of enclosure for the occupiers. The provision of amenity space at the proposed site would be minimal and, due to orientation of the site, the proposed location of the house and the surrounding high hedges and vegetation, would likely receive limited direct sunlight, especially in winter when the sun would be lower in the sky.
11. Therefore, the proposal would not accord with Policies SG14 and SG17 of the Local Plan which seek to ensure that developments do not result in overbearing or overshadowing and a detrimental loss of light.

Living Conditions of the occupiers of Neighbouring Dwellings

12. Because of the proximity of the proposed dwelling to the boundaries with No. 27 and the host property at No. 67, the first-floor windows would overlook the rear gardens of these latter dwellings. There is existing vegetation along the boundary with No. 27 that would provide some screening but this would depend on it being maintained and would in any event diminish in autumn and winter when some of the vegetation would shed leafage. The impact on the host property is less detrimental as the overlooking is at a more oblique angle, though there is no existing vegetation to provide screening. Therefore, the proposal would not accord with Policies SG14 and SG17 of the Local Plan which seek to ensure that developments do not result in overlooking or a loss of privacy.

Impact of Vehicle Movements on the Occupiers of the Host Property

13. Because of the site layout created by the cut-through, the garden at No. 67 is significantly larger than many of the neighbouring plots. However, the appeal site, including the shared access would appear from the application drawing showing site layout to comprise more than half of the total curtilage of the existing building. It is unclear where ownership of the shared drive would lay, but as a vehicular access it would not be usable as amenity space. However, despite the significant loss of land to the proposal, the residual plot at No. 67 would retain a long boundary with the neighbouring property at No. 69 that would provide for the retention of adequate amenity space.
14. The vehicular access would run close to the flank elevation of the host building. This wall has singular ground- and first-floor windows that would overlook the shared drive. The proposed surface of the access would be gravel. There is currently no vehicular traffic over this land other than that associated with the host property so there would be some impact from the introduction of an additional property with an expectation of further vehicular movements. However, any increase in traffic is unlikely to be excessive and the gravel surface would help to regulate vehicle speed thereby attenuating any noise. The proposal would not be unacceptably detrimental to the occupiers of the host property in terms of noise and disturbance from vehicular movements.

15. Therefore, the proposal would be in accordance with Policies SG14 and SG17 of the Local Plan insofar as they seek to ensure that developments do not result in unacceptable loss of amenity arising from noise and disturbance from vehicular activity.

Housing Land Supply

16. The Council accepts it is currently unable to demonstrate a five-year housing land supply (HLS). Paragraph 11 states where the policies which are most important for determining the application are out of date, planning permission should be granted for development proposals unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Footnote 7 advises that policies should be considered out of date where applications involve the provision of housing and the Council cannot demonstrate a five-year HLS. There are no specific policies in the Framework to protect areas or assets of particular importance that would provide a clear reason for refusing the proposal subject to this appeal.

Planning Balance and Conclusion

17. Policies SG14 and SG17 are consistent with the Framework, which advises at paragraph 127 that policies should ensure that developments are sympathetic to local character, including the surrounding built environment, and should create safe and accessible places with a high standard of amenity for existing and future users. However, because of the shortfall in HLS the Policies should be considered out of date insofar as they seek to restrict housing development.
18. The proposal for a single dwelling would make a very modest contribution to the Council's HLS and would provide a commensurate social benefit. However, notwithstanding compliance with the Local Plan in terms of the effect on the host dwelling from vehicular movements, there would be a significant detrimental social impact arising from the effect of the scheme on the living conditions of occupiers and future occupiers of the host property, the proposed dwelling and neighbouring buildings, as described above.
19. In addition, while there would doubtless be an economic benefit arising during construction in terms of employment. There is no compelling evidence that would lead me to conclude there would be a significant ongoing economic benefit. The effect of the proposal on the built environment in terms of its impact on character and appearance would have a detrimental environmental impact as outlined above.
20. The detrimental impacts of the proposed development would significantly and demonstrably outweigh the very modest benefits likely to arise from the scheme. Therefore, for the reasons given and taking into account other all other matters raised, I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR