
Appeal Decision

Site visit made on 8 June 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 14 July 2016

Appeal Ref: APP/A2525/W/16/3142589

**Land between 2 and 14 Church Street, Donnington, Spalding, Lincolnshire
PE11 4UA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr John Morza against the decision of South Holland District Council.
 - The application Ref H04-0688-15, dated 14 July 2015, was refused by notice dated 24 September 2015.
 - The application sought planning permission for the erection of two detached dwellings on land between 2 and 14 Church Street, Donnington, Spalding without complying with a condition attached to planning permission Ref H04-0703-14, dated 27 November 2014.
 - The condition in dispute is No 12 which states that: "Before the first occupation of the dwellings hereby permitted, a mechanical turntable to enable vehicles to exit the site in a forward gear shall be provided in the position indicated on Dwg No. 2291/11-05B (received by the Local Planning Authority on 15 December 2011). The turntable shall thereafter be maintained in full working order and kept unobstructed and available for use at all times".
 - The reason given for the condition is: "To ensure that vehicles are able to enter and exit the site in a forward gear, in the interests of highways safety. This condition is imposed in accordance with Policies SG14 and SG15 of the South Holland Local Plan 2006".
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Decision

1. The appeal is dismissed.

Main Issue

2. Whether the condition is reasonable and necessary in the interests of highway safety.

Reasons

3. The appeal site is an infill plot fronting a bend in Church Street which is a busy section of the road with no parking restrictions in place. Two substantial detached houses have been erected on the appeal site with front elevations close to the footway but leaving little garden space at the rear for family houses of this size. There is a narrow shared access between the two units. The rear garden space is irregularly shaped and enclosed by a combination of wooden fencing and high brick walls. It includes provision for one parking space for each dwelling.
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4. The single lane nature of the access and its location on the bend of a busy street leave me in doubt that vehicles exiting the site in reverse gear would be a dangerous manoeuvre.
5. The reason for imposing the condition requiring a mechanical turntable within the rear of the appeal site was directly related to the lack of adequate external space. The local highway authority acknowledged that a suitable turning area could be laid out if the block paving area at the rear of the site were kept free. The Council judged that the availability of this manoeuvring area would over time inevitably be lost due to encroachment of domestic paraphernalia associated with the dwellings' use, making it likely that vehicles would reverse onto the main road.
6. As I saw when I visited the site, most of the rear area is paved with block paviors suitable for vehicle use. Two small patio areas next to the rear elevations are paved with flagstones. The block plan submitted with the appealed application clearly demarcates a proposed turning area and parking bays within the pavior block area, but proposing to use the remaining space for additional separate garden areas for the respective dwellings. The proposed turning area is tight and I doubt whether any but the smaller cars could perform such a manoeuvre.
7. Considering the proposed layout and the restricted nature of the rear area, it is likely in my view that successive occupiers would find it difficult to prevent accumulation of possessions that would remain completely clear of the proposed turning space. This would be likely to lead to drivers leaving the site in reverse gear which, even if this occurred on limited occasions, would still present an unacceptable risk to highway users and pedestrians.
8. A condition that simply prevented the reversing of vehicles onto the main road would be difficult to enforce. An additional condition such as that proposed which would prevent obstruction over the whole access, parking and turning area, would be impractical for similar reasons. Reliance on such conditions would fail to recognise the real dangers posed by the access, particularly the limited visibility to the south (the traffic approach side) for drivers exiting the site, exacerbated by vehicles parked in the road.
9. The Planning Policy Guidance (PPG) sets out that in determining whether a condition is necessary it is pertinent to ask whether or not it would be necessary to refuse the development without the condition. A condition must not be imposed unless there is a clear planning reason for it, i.e. it is needed to make the development acceptable in planning terms. The turntable was proposed as part of the original scheme which would not have been approved without it. Its installation and the requirement for it to remain operable would remind property owners of the danger of reversing onto the highway, and make it less likely that it would be encroached upon. The evidence does not persuade me that the risk of mechanical failure would be a compelling reason to dispense with it.
10. I am therefore satisfied that notwithstanding the slightly smaller paved area involved in the proposal, and the inherent benefits of a traditional turning area, installation of the turntable is necessary to provide for safe vehicular access to and egress from the site. The various permutations of illustrative conditions put forward in the appeal statement have been considered; they would not however overcome the fundamental issue of the susceptibility of the turning

space in the development being encroached upon. This is an important factor because of the small and disparate nature of the garden elements proposed within the rear of the site.

11. I conclude that the removal of the condition requiring the installation of a turntable as envisaged by Condition No 12 on the original planning permission would lead to a severe road hazard contrary to Policy SG15 of the South Holland Local Plan 2006, which requires that new development shall provide safe and convenient access to and within sites. It would also be contrary to Paragraph 32 of the National Planning Policy Framework (Framework), which states that account should be taken of whether safe and suitable access to the site can be achieved for all people, and Paragraph 58 which seeks new development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

Other Matters

12. The appeal site is adjacent to a Grade II listed building, Town Farm House, which would be unaffected by the proposal.
13. From a plan submitted by the Council it appears the appeal site is in the Donnington Conservation Area (CA); however no further information is supplied. From what I have read and seen, I do not consider that the proposal would fail to preserve the character or appearance of the CA, the attributes of which seem to focus on the architectural and historical qualities of the locality.

Conclusion

14. For the above reasons and having regard to all other matters raised I find Condition No 12 to be both reasonable and necessary in the interests of highway safety and the appeal is dismissed.

Grahame Kean

INSPECTOR