
Appeal Decision

Site visit made on 24 February 2015

by Susan Heywood BSc (Hons) MCD MRTPI

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

Decision date: 13 March 2015

Appeal Ref: APP/Y2736/A/14/2229316

1 Chapel Street, Nawton, York YO62 7RE

- 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 Miss Jennifer Bulmer against the decision of Ryedale District Council.
 - The application Ref 13/01143/FUL, dated 2 October 2013, was refused by notice dated 28 May 2014.
 - The development proposed is the erection of a detached 2 storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The Council have confirmed that they are no longer seeking affordable housing contributions from small developments such as that proposed in this appeal, in line with recent changes to Government policy. There is therefore no need for me to consider this matter further in this decision.

Main Issues

3. The main issues in this appeal are the impact of the development on the living conditions of existing and future occupiers and on the character and appearance of the surrounding area.

Reasons

Living conditions

4. The proposed dwelling would be located on the former garden area to the west of No. 1 Chapel Street¹. Land between the proposed dwelling and the rear elevation of No. 1 would be made available for car parking and pedestrian access. As a result, the amount of rear amenity space remaining for the sole use of the property at No. 1 would be severely restricted. It would comprise a small area immediately outside the rear door and located between the projecting rear wings of Nos. 1 and 2. The area is of sufficient size to allow for the storage of bins, but any seating areas for the enjoyment of the occupiers of

¹ Chapel Street runs north to south from the A170. At its northern end it bends to the west and the appeal site is located on the southern side of the lane. The appellant refers to this as being Chapel Street although the Council indicate that the dwellings opposite the site are addressed as High Street. For the purposes of this decision I have referred to the lane in front of the site as Chapel Street.

the dwelling would be located immediately adjacent to those bins which I consider to be unsatisfactory. The area is also overlooked from the adjoining rear yard and the right of way.

5. The appellant states that additional space will be available as the adjoining vehicular space will only be used for occasional unloading for the property at No. 2. There is no indication of the meaning of the word 'occasional' and in any case, that additional area would be no more than a shared space which could not be permanently utilised by the occupiers of No. 1 due to the need to allow access for vehicles for No. 2. The remaining area referred to by the appellant is proposed as parking for No. 1. It would be separated from No. 1 by the parking space for No. 2 and the pedestrian access to other properties on Chapel Street. I do not consider that a driveway can reasonably be considered to be part of the amenity space for the existing dwelling.
6. I appreciate that the dwelling is currently rented out to tenants (separately from the appeal site) who may prefer not to have a large garden to maintain. However, the property may not always be in the hands of the current owner. To allow this proposal with such a substandard amenity space would limit the ability of the property to revert to a family dwelling, and may make it less attractive in general to owner occupiers, thus reducing the versatility of the dwelling in the longer term.
7. I conclude that in this respect, the proposal would create a poor living environment for existing and future occupiers of No. 1.
8. The Council and other surrounding occupiers raise concern regarding overlooking of existing properties. The appellant indicates that the proposed dwelling would be located some 6.5 metres from the front of the cottage opposite. Two of its windows, to the lounge and the front bedroom, would face a ground and a first floor window in the cottage. Although the proposed windows would be slightly off-set from the existing windows in the cottage, there would nevertheless be a considerable degree of inter-visibility between the two properties. Given the limited distance between the front elevations of the two properties, this is likely to result in a loss of privacy to the occupiers of the existing cottage and a perception of being overlooked by the occupiers of the new dwelling. I acknowledge that the existing ground floor windows in the cottage directly adjoin the road. But, the potential for overlooking from the occupiers of a permanent dwelling is different to the transient glances which may occur from passers-by from time to time. In any case, the existing first floor window currently enjoys a high degree of privacy. The proximity of the proposed windows in the front elevation of the dwelling to those in the cottage opposite would lead to overlooking and a loss of privacy which would harm the living conditions of the occupiers of the existing cottage.
9. I am satisfied that other ground floor windows would not overlook nearby properties. A condition could be imposed to ensure that the first floor bathroom window to the rear and the landing window to the side would contain obscure glazing. Furthermore, I do not consider that there would be significant amounts of overshadowing of the properties on Chapel Street as a result of the proposal.
10. The recently adopted Ryedale Plan – Local Plan Strategy (LPS) includes policies SP16 and SP20. Both policies aim to ensure that amenity of existing and future occupiers is not unduly harmed. These policies have been adopted

having regard to the National Planning Policy Framework (the Framework) and are therefore in compliance with it. For the above reasons, I conclude that the development would harm the amenity of existing and future occupants of nearby properties and would therefore fail to comply with policies SP16 and SP20 of the LPS.

Character and appearance

11. Chapel Street is characterised by stone dwellings many of which abut or sit close to the road. There is a general sense of enclosure created by the narrow lanes and building forms. The exception to this is at the bend in Chapel Street, adjacent to the gable wall to No. 1. Here the road becomes wider and a bus lay-by has been created opposite the site. The properties to the north are also set back from the road, although an outbuilding running along the boundary of one of the properties retains some sense of enclosure to part of this frontage. At the appeal site the existing stone boundary wall and its proximity to the cottage opposite, which abuts the road, re-establishes this sense of enclosure at street level. This is particularly evident when viewed from the junction between Chapel Street and High Street.
12. The proposal would result in a wide gap in the street enabling the creation of three driveways and a pedestrian access located side-by-side. A paved forecourt is also proposed along approximately half of the site frontage, almost immediately opposite the bus lay-by. The proposal would therefore result in a large area of hard-surfacing at a point in the street where the road width is already greater than is characteristic of Chapel Street generally. This aspect of the design would be visually unattractive and would result a significant loss of the important sense of enclosure at this point in the street.
13. I accept the appellant's point that the wall could be removed without the need for planning permission. However, there is nothing to suggest that this would be a likely fallback position in the absence of this re-development proposal. I acknowledge that a condition could be imposed requiring the installation of tall gates to the site frontage. However, the increased perception of road width would remain due to the paved forecourt and set back replacement wall. It is also likely that the gates, at least to the space serving No. 1, would be left open as there would only be space to park a small car on that driveway clear of the gates. This is also the situation with the space for No. 2, although I accept that, as this is an occasional space, it is more likely that the gates here would be kept closed when the space is not in use.
14. I note that there are instances where two driveways sit side-by-side elsewhere in the village, including opposite the site. However, I saw no instances where three driveways and a pedestrian access sit side-by-side as is proposed in this case. Furthermore, many of the wider gaps for driveways also have planting areas to the side or along the frontage to soften the overall impact of the hard surfacing. Insufficient space has been provided in the appeal proposal to allow for the softening or breaking up of this hard-surfaced area. This feature of the proposed design would be harmful to the street scene and would fail to reinforce local distinctiveness or respect the character and context of the immediate locality as required by policies SP16 and SP20 of the LPS.
15. I have referred above to the sense of enclosure at street level, but the Council are concerned at the loss of openness provided by the existing site. I agree that the site does provide a sense of openness above street level where views

can be gained of the sky above the existing boundary wall. However, I do not consider this to be the most important aspect of the street scene, nor is it a significant characteristic of the surrounding area. Furthermore, the proposed dwelling would provide a gap between it and the former chapel to the west which would still allow open views of the sky above the proposed boundary wall.

16. Whilst the proposed dwelling would be taller than the cottage opposite, the surrounding area contains a variety of building heights. The dwelling would be off-set from the front of the cottage opposite and it would have sufficient space around it so that it would not appear overly dominant from either the street or the cottage. The Council raise concerns about the length of the south west elevation of the building. This view of the dwelling would be gained from the junction between Chapel Street and High Street. Currently the view towards the site from this direction is of the gable wall of the outrigger at No. 1 and the rear elevations of the remaining dwellings on Chapel Street. The proposed dwelling would have a similar building form and, the appellant indicates, a lower roof height than those properties. Accordingly, this aspect of the proposal would not be out of keeping with the character of the street-scene.
17. Nevertheless, for the reasons outlined above I conclude that the proposed development would harm the character and appearance of the surroundings contrary to policies SP16 and SP20 of the LPS.

Other matters

18. I note concerns regarding a right of way to other properties on Chapel Street and a party wall. These are matters for resolution separately between the parties involved.
19. The appellant has raised concerns regarding the Council's handling of the proposal at application stage. However, it is not within my remit to comment upon these matters.

Conclusion

20. The Framework sets out the presumption in favour of sustainable development which is to be seen as the golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay. I have found that the proposed development would not accord with the up-to-date development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Susan Heywood

INSPECTOR