



Appeal Decision

Site visit made on 18 September 2018

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2019

Appeal Ref: APP/U2370/W/18/3203625

Land off Ormerod Street, Thornton, FY5 4HU

- 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 Baxter Homes Ltd against the decision of Wyre Borough Council.
 - The application Ref 17/00320/FULMAJ, dated 29 April 2016, was refused by notice dated 4 April 2018.
 - The development proposed is 17 no. houses consisting of 13 no. 2b4p houses & 04 no. 3b5p houses and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Both main parties were given an opportunity to comment on any relevant implications for the appeal, and any comments received have been taken into consideration.
3. During the course of consideration of the appeal the Council provided an updated position with regard to their housing land supply. The appellant was provided with a copy of the updated figures and was invited to comment on the information.

Main Issues

4. The main issues are the effects of the proposed development on:
 - the living conditions of the existing occupiers of the houses on Heys Street with regard to privacy and future occupiers of the proposed houses with particular regard to privacy, outlook, noise and disturbance;
 - the character and appearance of the area.

Reasons

Living conditions

5. The appeal site is an irregular shaped elongated parcel of land which slopes gently upwards towards the top (west) end of the land. It is located to the rear of a small number of traditional terrace houses and a modern housing development which predominantly consists of relatively large detached houses

with a row of three storey town houses. The site is bordered to the north by the training pitches of Fleetwood Town Football Club. Although interested persons suggest the land is used for recreational purposes, it has the general appearance of vacant land. To the east of the site are more traditional terrace houses.

6. The Councils Spacing Guidance for New Housing Layouts Supplementary Planning Guidance (SPG) requires that the minimum distance between rear elevations and rear boundaries is 10.5m. A consequence of the proposed layout is that some of the rear garden depths would fall below this standard. The rear gardens to the proposed houses on plots 6 – 17 would range from about 7 – 11m, with the training pitches being located within about 5m of the rear fence lines of these plots.
7. I have sympathy with the appellant as it appears there is an on-going breach of condition in respect of the use of the training pitches. Therefore, at this time the Council is concerned about the potential impact of noise from users of the training pitches on the occupiers of the proposed houses. I note that the officer considered that, subject to mitigation measures, including a certain specification of glazing and a 2.5m high acoustic fence, this concern could be overcome. However, it is acknowledged in the officer's report that there is potential for such a fence to have an adverse visual impact.
8. Details of the acoustic fence have not been provided. However, it seems likely that in order to deliver the required noise reduction that any such fence would be substantial in terms of design and construction. The officer considered that any visual harm could be mitigated through the appropriate use of colour and materials. However, I agree with the Council that the adverse visual impact of such a fence could not be overcome through the use of materials and colour or landscaping, which would further reduce the garden depth as it would need to be substantial to offer any screening.
9. Because of the shortfall in garden depth for some of the proposed houses and the significant height of the fence, I consider this would have a significantly adverse effect on future occupiers living conditions, particularly but not solely those with the shorter gardens, by way of an adverse visual impact on outlook from within the houses and would significantly compromise the enjoyment of those gardens. This would be contrary to the overall amenity protection aims of Policy SP14 of the Wyre Borough Local Plan 1991 - 2006 Written Statement (Local Plan). It would also conflict with the Framework which seeks to ensure a high standard of amenity for existing and future occupiers of buildings.
10. The SPG sets out minimum spacing standards. The relevant required separation distances in this case being 21m. Despite the SPD having been produced in 1998, it is a recognisable and commonly used standard. The separation distance between the proposed houses on plots 1 – 2 would be about 21m. However, on plots 3 -4 it would be about 20.5m. These distances have been taken from the outer face of the two storey outriggers at the rear of numbers 9 -14 Heys Street, with the exception of no.12 which does not have an outrigger.
11. The rear elevations of the proposed houses on plots 1 – 4 and the rear of 9 – 14 Heys Street would be almost parallel and the ground levels of the proposed houses would be 500mm higher. The difference in ground levels does not necessarily justify the need for greater separation distances.

12. According to the Council the outriggers contain a kitchen window at ground floor level. Views from the kitchen windows are largely restricted by existing boundary treatments. Views from the ground floor windows of the proposed houses towards these existing windows would therefore be limited and further, landscaping and boundary treatments could be required by condition to restrict the views even more. Whilst some views from the first floor windows of both the existing and proposed houses would be possible, given the marginal shortfall in separation distances I consider that this would not have a materially adverse effect on privacy levels.
13. Despite a technical breach of the SPG, overall, I consider that the shortfall in the separation distance would not result in unacceptable harm to the living conditions of the occupiers of houses on Heys Street or the future occupiers of the proposed houses on plots 1 - 4 as a result of overlooking. Therefore there is no conflict with Policy SP14 of the Local Plan or the Framework and this would not be a reason alone to dismiss the appeal.

Character and appearance

14. The Council appear to raise no concern with the design of the houses and I see no reason to take a different view. Given the mix of housing seen in the vicinity of the site, ranging from traditional terraces with fairly small back yards, to large modern detached homes with more space around them and the location of the site adjacent to the football club training facility, I find that the proposed development would not have an incongruous appearance and would cause no material harm to the character and appearance of the area. There is therefore no conflict with the overall design aims of Policy SP14 of the Local Plan or the Framework.

Planning balance

15. In refusing the application the Council referred to Policy SP14 of the Local Plan. Whilst the Local Plan was adopted over 19 years ago, the overall design and amenity protection aims of Policy SP14 are consistent with those of the Framework and as such I attach substantial weight to it.
16. It is evident from the planning officers report that there were concerns with the overall standard of the development and it was concluded that it "*is a very finely balanced matter and it is considered that the benefits just outweigh the adverse effects of the development*". The benefits being the provision of 17 affordable houses. In this regard I acknowledge the support of the Council's Affordable Housing Officer and have had regard to the findings of the Strategic Housing Market Assessment (2014) which identifies a need for 52 affordable dwellings in Thornton. However, it seems to me that the need to boost the supply of new houses should not be at the expense of achieving well designed development that provides acceptable living conditions.
17. At the time the planning application was considered the Council could not demonstrate a 5 year supply of housing land. However, in their statement the Council stated they had a supply equivalent to 5.19 years. During consideration of the appeal the Council submitted a revised position statement in respect of their housing land supply which they contend demonstrates they have a supply of 11.2 years. The Council state they have calculated this figure using the new standard methodology set out in Planning Practice Guidance, applying a 5% buffer. This figure has not been examined and whilst raising doubts over the

originally submitted figure the appellant has not responded to the Council's latest position or provided any substantive contradictory evidence.

18. When judged against some of the core planning principles from the Framework the proposal would perform well in that it would be in an area where there is good access to facilities and would contribute to the supply and broaden the mix of housing. Short term economic advantages would also arise from the construction of the houses and further benefits would result from the additional support to the vitality of the local community from the future occupiers of the houses. I have also had regard to the proposed construction of the houses using modern technologies that would reduce co2 emissions. However, the harm to the living conditions of future occupiers in respect of outlook means that the social objective of sustainable development would not be achieved.
19. Even if the Council were unable to demonstrate a 5 year supply of housing land, overall, I find that the adverse impacts of the proposed development significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore the proposal would not represent sustainable development. The material considerations do not justify making a decision other than in accordance with the Development Plan.

Other Matters

20. I acknowledge that the Council found the proposal to cause no harm in respect of conservation interests, ecology or flood risk. Nevertheless absence of harm in these regards cannot outweigh the harm I have identified.

Conclusion

21. For the reasons given above and having regard to all other matters raised, the appeal is dismissed.

Felicity Thompson

INSPECTOR