



Appeal Decision

Site visit made on 31 July 2012

by Jean Russell MA MRTPI

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

Decision date: 12 September 2012

Appeal Ref: APP/T2350/A/12/2173804

43 Hawthorne Place, Clitheroe, Lancashire, BB7 2HU

- 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 Timothy Brown against the decision of Ribble Valley Borough Council.
 - The application ref: 3/2011/0703, dated 30 August 2011, was refused by notice dated 12 January 2012.
 - The development proposed is the erection of a three bedroom, two storey detached dwelling with attached garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues are: whether the site would be suitable for the proposed development in principle; the effect of the development on the living conditions of nearby occupiers; its effect on the character and appearance of the area; and whether it is required to maintain an adequate supply of housing land.

Planning Policy

3. The *National Planning Policy Framework* (the Framework) was published in March 2012. It replaces the Government's former *Planning Policy Statements* and the letter to Chief Planning Officers: *New Powers to Stop 'Garden Grabbing'*, which was dated 15 June 2010 and referred to by local residents.
4. The Framework sets out a presumption in favour of sustainable development. This means granting permission for proposals that accord with the development plan, or where the development plan is absent, silent or out of date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
5. The *Ribble Valley Districtwide Local Plan* (LP) was adopted in June 1998. Given its age, and for the 12 months following publication of the Framework, due weight should be ascribed to relevant policies in the LP according to their degree of consistency with the Framework.
6. The Government intends to revoke the *North West of England Plan: Regional Spatial Strategy to 2012* (RSS) by Order under the *Localism Act 2011*, subject to the outcome of environmental assessments and consultation. Until such an Order is made, the RSS remains part of the development plan. I shall have regard to it insofar as it is relevant and consistent with the Framework.

7. The Council's *Planning Policy Note and Design Guidance: Extensions and Alterations to Dwellings* (PPNDG) does not form part of the statutory development plan. However, it is a material consideration and it sets out principles and guidance that are relevant to proposals for new housing. It was subject to public consultation, and it carries weight insofar as it accords with the Framework.

Reasons

The Principle of Development

8. The proposed dwelling would be built in the existing front garden of the residential property at 43 Hawthorne Place. The definition of previously developed land in the Framework excludes private residential gardens, and so the proposed house would be on greenfield land. The Framework encourages the use of previously developed land for development, and it also states that local planning authorities (LPAs) should consider setting out policies that resist inappropriate development of residential gardens, for example where this would cause harm to the local area.
9. However, the Framework does not prohibit the construction of new houses on residential gardens. The same is true of the settlement strategy set out in LP Policy G2. I am not aware of any LP or RSS policy which rules out development of garden land. The proposed development is not unacceptable in principle.

Living Conditions

10. Hawthorne Place is a cul-de-sac and the proposed house would face the southwest corner of the turning head. It would stand side-on to the front of no. 43; side-by-side to no. 41; and diagonally across from nos. 45 and 47. Its rear elevation would be at 90° to the front of Ashdown on Eastham Street.
11. The proposed house would be some 15-17m from Ashdown, and certainly less than 21m as recommended by the PPNDG. The PPNDG allows for exceptions to the 21m rule in some circumstances which *may* include where windows are at oblique angles. In this case, however, because of their proximity, I consider that rear-facing bedroom windows in the proposed house would afford views into front-facing rooms at Ashdown. The views would be restricted by orientation, but the occupiers of Ashdown would still experience a strong sense of intrusion. Moreover, first floor windows in the proposed house would directly overlook the front garden at Ashdown, which is landscaped and clearly used for enjoyment.
12. I appreciate that the front-facing rooms and garden at Ashdown can already be seen from Eastham Street and properties on that road. However, it is difficult to see into first floor rooms from the highway and existing nearby dwellings are either further away or at more acute angles. I consider that the proposed development would result in an unacceptable increase in actual and perceived loss of privacy at Ashdown. Landscaping would not overcome the harm, because any planting on the boundary high enough to screen first floor windows in the proposed house would be likely to block light to those windows. It would prejudice the living conditions of future occupiers of the development.
13. It would also be difficult to plant trees in front of the proposed house, on land to be used in part for car parking. Yet the front elevation of the proposed house would be less than 21m from 45 Hawthorne Place. The facing habitable room windows would again be orientated at angles, but not so as to prevent harmful overlooking and perceived intrusion. While the frontage of no. 45 can again be seen from the road, I find that the proposed house would result in an unacceptable loss of privacy in first floor rooms at that property.

14. The proposed house would be less than 21m from the front of 43 Hawthorne Place, but the angles between windows would be too sharp for harmful overlooking. The proposed house would be too far from no. 47 to cause an unacceptable loss of privacy there. There would be no unacceptable overlooking of no. 41 because the only facing window would be a high level rooflight.
15. However, the occupier of no. 41 has also objected that the proposed building would 'overburden' and reduce the 'visual aspect' from his garden. The Council did not refuse permission on this basis and the planning system does not exist to protect private views. Nevertheless, outlook is a matter to be properly considered. A single storey garage would be attached to the proposed house on its western side, adjacent to no. 41. The building as a whole would be set back so that its front elevation would be roughly in line with the main back wall of no. 41. This means that the side elevations of the proposed garage and house would project past the conservatory at no. 41 and then for about 4.5m alongside the garden.
16. The proposed garage would be some 0.8m from the boundary to no. 41 and 2.6m high to the eaves. It would likely be taller than the fence. Its roof would slope up to the proposed house, the eaves of which would be some 5.2m high at a distance of less than 4m from the boundary. The proposed building would not seriously overbear the conservatory at no. 41, which has a solid side-facing wall. In my view, however, it would be sufficiently large and close as to appear unacceptably dominant from the adjoining garden. The amenity space behind the proposed house would be about 4.5m deep, and too shallow to provide commensurate visual relief. The development would cause an unacceptable loss of outlook from no. 41.
17. The proposed building would be approximately due west of no. 41. Since it would be stepped up from the boundary, it would not cause a loss of light to the extent feared by the occupier of no. 41. There would be no unacceptable impact on his rear-facing windows when the proposal is assessed using the 45° rule set out in the PPNDG. However, I consider that the building would cast a slight shadow towards the garden at no. 41 in the afternoon, when the sun is low in the sky – and this would exacerbate the harmful loss of outlook.
18. I am satisfied that the proposed house would cause no unacceptable loss of light or outlook at 43, 45 or 47 Hawthorne Place or at Ashdown. Since it would be served by a garden of more than 10m², as recommended by the PPGDN, it would be unlikely to cause an over-concentration of domestic activity outdoors that would unacceptably disturb nearby occupiers. I also find that the retained back garden at 43 Hawthorne Place would be of an adequate size to serve that property.
19. Nevertheless, I conclude that the proposed development would cause unacceptable harm to the living conditions of nearby occupiers, through overlooking and intrusion at Ashdown and 45 Hawthorne Place, and through loss of outlook at no. 41. It would conflict with LP Policy G1 and the PPNDG, which require development to not adversely affect the amenities of the surrounding area or neighbours. It would conflict with the similar principle set out in the Framework, that planning should secure a good standard of amenity for occupants of land.

Character and Appearance

20. The Council did not refuse permission on this ground, but local residents object to the impact of the development on the appearance of the estate with particular regard to spacing. The front garden at 43 Hawthorne Place is laid out to lawn. It is not a designated open space in the LP, but this does not mean that its actual openness can be deemed 'artificial' as said in the Council's report. The layout of any site may affect the character of the area and be a matter of public interest.

21. I saw that most houses in this estate are detached, two storeys high and served by front and rear gardens. They are generally separated by gaps of at least 2m at first floor level. In my view, the estate has a spacious layout that is integral to its suburban character. I also saw that land beside no. 51, which stands opposite no. 43 on the northern side of the turning head, is used as a drive to Sunnymede Cottage. Thus, it is not necessarily the case that any form of development on the appeal front garden would cause unacceptable harm to the character of the area. Even so, the land represents one of the most prominent gaps between dwellings.
22. The proposed house would be more than 6m from nos. 41 and 43 at first floor level and it would have a hipped roof. At this height, there would still be generous gaps to the neighbouring properties. However, the spacing would be much closer at ground floor level. The proposed house would be just 0.8m from the existing garage at no. 43. This garage would be set back from the proposed building, but on raised land. The ridge of its hipped roof would be higher than the eaves of the proposed house.¹ Meanwhile, I have noted that the development would be 0.8m from the boundary to no. 41. Its front elevation would stand back from a single storey extension on that side which abuts the boundary.
23. The proposed building would be smaller than nos. 41 or 43 in terms of width and bulk. Taking its relatively constricted size together with its proximity to the side boundaries, I consider that it would appear shoehorned into or cramped within the plot. Other properties in the estate are varied in scale and may be closely spaced. However, there are few adjoining dwellings which are so divergent in size and separated by gaps of less than 1m on both sides, even at ground floor level. I find that the development would appear incongruous and it would unacceptably diminish the spacious character of the street scene. The visual harm would not be adequately mitigated by the proposed front garden.
24. The proposed dwelling would be compatible with nearby properties in its detailing and facing materials. Nevertheless, by reason of its siting and scale, I conclude that it would cause unacceptable harm to the character and appearance of the surrounding area. It would conflict with LP Policy G1, which requires a high quality of design in layout and relationship between buildings. It would also conflict with the Framework, which promotes good design by expecting new development to respond to local character.

Housing Land Supply

25. The Framework expects LPAs to significantly boost the supply of housing, by identifying and updating annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional 5% buffer to ensure choice and competition in the market for the land.
26. The Council claims to have a 5.2 year supply of housing land with a 10% allowance for slippage. The estimate is based on the requirement set out in RSS Policy L4 for 161 dwellings pa to be achieved in Ribble Valley. The Council suggests that any update to the housing requirement should be taken forward through the development plan process, although the Core Strategy is far from adoption.
27. The appellant criticises the Council's figures for including no allowance for delivery and being based on out-of-date evidence. The Council agreed in February 2012 that it requires 200 dwellings pa to meet its actual current needs. It suggested in

¹ The proposed building would be on land that currently slopes down from the existing house at no. 43. A planning condition could be imposed to ensure that finished floor levels are approved by the Council. However, it would be difficult to raise the proposed building so as to be more level with the garage at no. 43 without also increasing its height – and impact on outlook – in relation to no. 41.

a report dated 15 March 2012, on another planning application (ref: 3/2011/0796/P), that its supply of housing sites therefore equates to just 3.3 years.

28. Neither party has provided sufficient detailed evidence for me to reach a safe conclusion as to the current housing requirement for decision-making purposes. The correct approach is to start with the development plan – the RSS – but in the light of the February resolution the appellant may be right that the supply should be increased. My uncertainty on this issue is undesirable but also inconsequential.
29. Even if there is a 1.7 year shortfall in the supply of housing land, the proposed single dwelling would do little to redress the situation. The Framework requires that housing proposals are considered in the context of the presumption in favour of sustainable development – but this scheme would not be sustainable due to its adverse impacts on amenity and the character of the area. I conclude that any need for the development to maintain an adequate supply of housing land would not outweigh the harm so as to justify a grant of permission.

Other Matters

30. The appellant amended the proposal from a previous scheme, in order to address the concerns of his neighbours. The Council then refused permission contrary to officer recommendations. I can understand the frustration this might cause, but it does not alter my findings on the main issues.
31. The planning permission ref: 3/2011/0796/P relates to a single dwelling in the garden at Sunnymede Cottage. Part of the approved building would be just 1m from the boundary with 51 Hawthorne Place and objections to the application were received. However, the plans suggest that the approved house would scarcely be seen from the street and unlikely to cause a serious loss of outlook, light or privacy at no. 51. There are certainly sufficient differences that the Sunnymede scheme cannot set a precedent for the proposal before me.
32. The proposed house would have a safe access and adequate off-street parking. There would be no loss of parking provision at 43 Hawthorne Place. I consider that one additional dwelling would not generate so much traffic as to make the street unduly congested or unsafe. Any disruption caused by construction would be temporary and not a good reason to withhold planning permission. These findings do not alter my conclusions on the main issues.

Conclusion

33. Notwithstanding that the proposed development would be acceptable in principle, and while there may be a shortage of housing land, it is my objections in relation to living conditions and character and appearance that lead to my decision. The harm caused by the development would significantly and demonstrably outweigh any benefits when assessed against the policies in the Framework as a whole. For the reasons given above, and having regard to all the other matters raised, I conclude that the appeal should be dismissed.

Jean Russell

INSPECTOR