



Appeal Decision

Site Visit made on 1 June 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 21st June 2021

Appeal Ref: APP/M2325/W/21/3269902

Land adjacent Holly Bank, Division Lane, Lytham St Annes FY4 5EB

- 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 Cookson against the decision of Fylde Borough Council.
 - The application Ref 20/0776, dated 23 October 2020, was refused by notice dated 23 December 2020.
 - The development proposed is described as 'Erection of single dwelling'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised plan, reference 6042-002C, has been submitted with the appeal which shows the proposed first floor rear balcony to have been deleted from the proposed scheme. The rear patio area has also been reduced in size.
3. I consider the revisions to be a significant alteration from the originally submitted application and considered by the Council. As such, they have not been subject to public consultation. The appeal process should not be used as a means to progress alternatives to a scheme that has been refused. In the interests of fairness and natural justice, I consider that the Council and interested parties would be prejudiced by the consideration of the amended proposal. I have therefore determined the appeal on the basis of the original plans submitted with the application.

Main Issues

4. The main issues are:
 - (i) The principle of the proposed development with specific regard to its location;
 - (ii) The effect of the proposed development on the character and appearance of the area; and
 - (iii) The effect of the proposed development on the living conditions of future and neighbouring occupiers, with particular regard to privacy.

Reasons

Principle of Development

5. The Fylde Local Plan to 2032 (adopted 2018) (the Local Plan) identifies the appeal site as being located outside any recognised settlement. As such, it is situated in the countryside. Local Plan Policy GD4 sets out the limited

categories of development that would be supported in the countryside.

The proposal would not meet any of the development exceptions as listed in criteria a) to e). Criterion f) states that development in the countryside will be limited to minor infill.

6. It is uncontested that the proposal would represent minor development and I have no substantive reason to disagree. However, there is no definition in the Local Plan or in the National Planning Policy Framework (the Framework) of "infill" and therefore, it is a matter of planning judgement for the decision maker. In my view it is reasonable to consider that infill development is the filling of a modest gap in an otherwise continuous built up frontage.
7. The appellant contends that the appeal site forms a small gap on the corner of two roads, and that it is contained by two rebuilt dwellings to the north and east, and by the Division Lane and Midgeland Road highways to the south and west respectively.
8. Nonetheless, there are paddocks beyond Midgeland Road to the west, and a large expanse of open land to the eastern side of Holly Bank. A pattern of sparse development is also prevalent along the northern side of Division Lane and the length of Midgeland Road. Given the visual gaps and intermittent open areas between housing along both of these highways, and in the immediate vicinity of the appeal site, there is not a continuous built up frontage.
9. The proposed dwelling would therefore not be positioned within a modest gap in an otherwise existing built up frontage and as a result it would not constitute infill development. As a consequence, the principle of the proposed development would not be acceptable, this is contrary to Local Plan Policy GD4. It would thereby also conflict with Policies S1 and DLF1 of the Local Plan, which set out the development strategy for the area, and would be inconsistent with paragraphs 12 and 15 of the Framework which collectively seek to ensure that the planning system is genuinely plan-led.

Character and Appearance

10. The appeal site is an area of open land on the corner of Division Lane and Midgeland Road. It lies adjacent to Holly Bank to the east and an approved house which is currently under construction to the north.
11. Despite the presence of the adjacent neighbouring buildings and a ribbon of development along the south side of Division Lane, the north side of this road and the length of Midgeland Road is characterised by more sporadic development where dwellings are generally dispersed and separated by intermittent fields and open, undeveloped areas. As such I consider the appeal site to have more affinity with an open and rural landform. The sparse and low density nature of surrounding development contributes positively to the character of the area.
12. The introduction of a dwelling on the appeal site would, along with its associated curtilage and access, result in an overly urban form to this pleasant and predominantly rural area. The intensification of built development and resultant loss of open character would also detract from the fragmented pattern of development nearby.
13. Whilst I accept that the existing hedgerow around the appeal site would afford some screening and containment for a dwelling, much of this vegetation is

deciduous and therefore development on the site would be more conspicuous in the winter months. In addition, I appreciate that Holly Bank is positioned closer to Division Lane than the proposed dwelling would be and that it would have a higher eaves and ridgeline than the proposal. It consequently would not be readily apparent from long range views when approaching from the east of Division Lane and would be seen against the backdrop of Holly Bank and the approved replacement dwelling to the north from certain directions. However, its discordant nature would nevertheless be prominent from a number of other vantage points, as well as the first floor windows of several houses in the vicinity.

14. With the above in mind, the appeal scheme would harm the character and appearance of the area. This would lead to conflict with Policies ENV1 and GD7 of the Local Plan. These seek, amongst other things, to ensure that development achieves good design that responds positively to its context and setting. The proposal is also inconsistent with paragraphs 127, 130 and 170 of the Framework which support rural development that is sensitive to its surroundings, sympathetic to character, and enhances the local environment.

Living Conditions

15. The Council has submitted the approved plans for the recently constructed Holly Bank in support of its case. These illustrate a floor-to-ceiling area of glazing that wraps round the first floor of the north west corner of this neighbouring property. This glazed element serves a habitable master bedroom. The plans also show two first floor balcony areas to be accessed via this bedroom and situated on the western side elevation and on the rear elevation of this dwelling. The accuracy of these plans has not been contested by the appellant and I have no substantive reason to question them.
16. Holly Bank's first floor rear balcony area has been principally orientated to face down towards its rear garden and is a generous distance away from the shared boundary with the appeal site. The proposed dwelling would also be set back from Holly Bank and the views of the proposed rear garden from the neighbouring rear balcony would therefore be at an oblique angle. These factors would ensure that no undue loss of privacy to the future residents of the appeal dwelling would occur.
17. Nonetheless, the position of the master bedroom's corner glazing and the first floor side balcony area would enable closer views towards the rear patio and garden area of the proposed dwelling. Whilst some of the proposed patio area would be obscured by a projecting two storey element of the proposed dwelling there would still be a large area in front of this and adjacent to the shared boundary that would be overlooked. Even with some screening from the hedgerows, and the intervening distance between the shared boundary, there would be significant views of the proposal's rear patio and garden area from this window and balcony.
18. The proposal would incorporate a first floor rear balcony area. Whilst this would also be principally orientated to face down towards the rear garden of the appeal property, its design and proximity to the shared boundary is such that anyone standing on the balcony would be afforded direct views of Holly Bank's intervening side and rear garden area. Although there would be more oblique views into the floor-to-ceiling glazed area and the side and rear balcony areas

of Holly Bank, this would still result in an unacceptable loss of privacy for its residents.

19. The proposal would therefore have a significantly harmful effect on the living conditions of both future occupiers and those of 'Holly Bank' with particular regard to privacy. As a result, it would conflict with Local Plan Policy GD7 which, amongst other matters, seeks to ensure that amenity will not be adversely affected by neighbouring uses, both existing and proposed. It would also fail to accord with paragraph 127 of the Framework which seeks a high level of amenity for all existing and future users.

Other Matters

20. My attention has been drawn to a number of appeal decisions that relate to 'minor infill' developments in the borough. Whilst I have regard to the appellant's points on these cases, I can confirm that these have not been decisive in my assessment of this appeal as I have determined it based on its own merits, with particular regard in this case to its immediate context, accordingly making a reasoned finding on whether or not it would constitute infill development.
21. I note the location of the appeal site relative to Blackpool airport and a number of other urban areas and employment sites. However, these matters did not appear to be contentious in the appeal. Even so, if the appeal site was accessible to such places, this would be a neutral factor which accordingly cannot, by definition, be used to weigh against harm. As a single dwelling, the proposed development would make a contextually very small contribution to housing supply which, according to the uncontested view of the Council, appears to be in excess of the five years required by the Framework.
22. The lack of objections received from local residents, St Anne's Town Council and Westby with Plumpton's Parish Council have also been put to me as favourable factors. However, the lack of an objection is not a determining factor in the consideration of an appeal. The question is whether there would be unacceptable harm in respect of, in this particular case, location, character and appearance and living conditions even if objections have not been lodged.

Conclusion

23. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

Mark Caine

INSPECTOR