



Appeal Decision

Site visit made on 29 January 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2019

Appeal Ref: APP/L3245/W/18/3213599

Land south of Red Bank, Market Drayton TF9 1AY

- 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 Redbank Construction Limited against the decision of Shropshire Council.
 - The application Ref 18/00224/FUL, dated 13 January 2018, was refused by notice dated 26 April 2018.
 - The development proposed is described as 'residential development (two detached dwellings).'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council advise that amended plans were submitted during their consideration of the application and have confirmed that it determined the application on the basis of these amended plans. I have therefore considered them accordingly.
3. The application was determined prior to the publication of the revised National Planning Policy Framework (2018)(the 'Framework'). The parties have been given the opportunity to comment on the implications of this on the appeal. Subsequently, a revised Framework was published in February 2019. As policies of the Framework that are material to this case have not changed fundamentally, I have taken it into account in reaching my decision. I am satisfied that this has not prejudiced either party.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of Nos 78 and 79 Dalelands Estate having particular regard to privacy and outlook.

Reasons

5. The appeal site comprises a vacant plot of land which appeared overgrown at the time of my site visit. The site is located in a predominantly residential area and would be accessed via a small cul-de-sac, Sunnyside. The appeal site slopes steeply down towards the rear of properties along Dalelands Estate. The rear gardens of Dalelands estate vary in depth, with the rear gardens of Nos 78 and 79 comparatively shallow, bound by close boarded fencing.

6. The proposed dwellings would be of split design, set over three floors with two stories facing out towards Sunnyside and three stories facing towards Dalelands Estate to the rear with windows to habitable rooms on all floors. There would be a separation distance of approximately 21 metres between the appeal dwellings and Nos 78 and 79 Dalelands Estate. The appeal dwellings would be approximately 9m from the boundary fence with Nos 78 and 79.
7. The proposed dwellings would extend up to a height of approximately 7.4m at the rear. The land continues to fall towards the properties along Dalelands Estate a number of meters, so the dwellings would appear much taller when viewed from the properties below. As a consequence of their height and bulk, this would result in the proposed dwellings appearing oppressive to occupants of Nos 78 and 79 and would unacceptably diminish the outlook from these properties and their rear gardens.
8. Although the separation distances proposed between dwellings would not be unusual in an urban setting, the height differential between the appeal site and the dwellings along Dalelands Estate significantly increases the potential for overlooking, particularly in relation to rear gardens. Whilst I saw that there is a degree of overlooking in the area already, occupants of the proposed dwellings would look down on the gardens to a much greater degree with habitable rooms facing towards Nos 78 and 79 Dalelands Estate. This would significantly reduce privacy for the occupants of these dwellings and in particular users of the gardens.
9. I have considered whether a condition requiring the windows on the rear elevation of the appeal scheme to be obscure glazed would overcome harm to privacy. However, given the extent of the fenestration on the rear elevation and that the windows would serve habitable rooms, I do not consider such a condition would be reasonable since it would significantly limit the outlook from the appeal dwellings, compromising the living conditions of future occupants.
10. I note that the appellant has raised similar concerns regarding an approved scheme for a pair of two storey, semi-detached dwellings on the site, reference 114/03759/FUL dated 3rd May 2016. However, this dwelling was set over two floors with more limited fenestration on the rear elevation. Furthermore, I must consider the appeal on its own merits.
11. The above permission remains extant and could be fully implemented. Whilst I do not have full details of the planning permission, on the evidence before me, I consider that the extant permission would be less harmful than the appeal scheme and would therefore not weigh in support of the appeal scheme.
12. The Framework seeks to support the Government's objective of significantly boosting the supply of homes. I note the concerns raised by the appellant regarding the viability of the approved scheme and that the social benefits of two additional dwellings would not be realised if the appeal were to fail. However, the minimal contribution that two dwellings would make to the supply of new homes would not outweigh the significant harm that I have identified above. Furthermore, the Framework also states that planning decisions should create places with a high standard of amenity for existing and future users.
13. Thus, privacy and outlook from Nos 78 and 79 would be unacceptably diminished, giving rise to significant harm to the living conditions of residents,

contrary to Policy CS6 of the Shropshire Local Development Framework Core Strategy (2011) which seeks to safeguard residential and local amenity, amongst other things and Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) which states that for a development proposal to be considered acceptable it is required to contribute to and respect existing amenity value, amongst other things.

Other Matters

14. The appellant makes the point that no objections were received by the Council during their consideration of the application from neighbours. However, objections were received in relation to the appeal and I have considered these accordingly.

Conclusion

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

M Savage

INSPECTOR