



S20/0065

Proposal: Construction of bungalow with detached garage, erection of boundary fencing, alterations to driveway.
Location: 31 Halfleet, Market Deeping
Applicant: Mr Justin Carter
Agent: Mr Justin Carter
Application Type: Full planning permission
Reason for Referral to Committee: Site is owned by the partner of a councillor
Technical Documents: Design, Access and Heritage Statement
Flood Risk Assessment
Minerals Assessment Report

Report Author

Phil Jordan, Principal Planning Officer

Tel: 01476 406074

Email: p.jordan@southkesteven.gov.uk

Corporate Priority:

Growth

Decision type:

Regulatory

Wards:

Market and West Deeping

Reviewed by: Jeff Upton, Interim Head of Planning

1 February 2021

Recommendation (s) to the decision maker (s)

That the application is approved conditionally

S20/0065 – 31 Halfleet, Market Deeping, PE6 8DB



Key



Application
Boundary



Addendum to Committee Report S20/0065

1 Introduction

- 1.1 Members will recall that this application was previously discussed at the Planning Committee meeting on 20 January 2021 (report at Appendix 1). At the meeting, the Committee resolved it was minded to refuse the application contrary to officer recommendation. Those Members who voted for the proposition were required to submit their reasons for refusal for consideration at a future Planning Committee meeting.
- 1.2 The relevant minutes of that meeting were as follows:
- 1.3 *Throughout the debate, Members raised several concerns and queried whether the application was compliant with policies DE1, SP1, SP2 and SP3 in the SKDC Local Plan.*
- 1.4 *Members raised the following concerns:*
- *The application site was situated by a busy road and could pose a highway risk during construction*
 - *The photos displayed during the case officer presentation did not reflect how narrow the proposed site was*
 - *Members felt that the application could be considered backland development*
 - *The application was viewed as overdevelopment in relation to the size of the site*
 - *The pitch of the roof proposed was not found to be in keeping with the character and nature of the surrounding area*
- 1.5 *A proposition was put forward that the Committee was minded to refuse the application. As the proposition to refuse the application was contrary to officer recommendations, the cooling off period set out in Article 9.1.9 (c) of the Council's Constitution was invoked, in line with the meeting procedure for virtual Planning Committee meetings. In accordance with the Constitution, a recorded vote was taken:*
- 1.6 *For: Councillors Bellamy, Bisnauthsing, Crawford, Kaberry-Brown, Milnes, Reid, Mrs Jacky Smith and Adams (8)*
- 1.7 *Against: None (0)*
- 1.8 *Abstain: Councillors Dilks, Exton, Selby and Mrs Judy Smith (4)*
- 1.9 *The vote was carried and those Committee Members who voted in favour of the proposition had five working days to provide the Interim Head of Planning with the planning reasons for their view, together with supporting evidence. The application would be placed on the agenda for consideration at a future meeting of the Planning Committee when the Interim Head of Planning would provide his opinion on whether the reasons advanced were substantial enough for the authority to defend the decision at an inquiry. In*

light of any additional information, the Committee would then be empowered to determine the application without being fettered by their vote at the previous meeting.

2 Reasons for Refusal Assessment

2.1 Following the resolution of minded to refuse application S20/0065 at the Planning Committee meeting of 20 January 2021, Cllrs Adams, Bisnauthsing, Crawford, and Milnes submitted reasons for refusal.

2.2 In line with paragraph 9.1.9 (c)(v) of Article 9 of the Council's Constitution, this report sets out the reasons for refusal together with the Interim Head of Planning's opinion on whether the reasons advanced are substantial enough for the authority to defend the decision at an appeal.

2.3 Cllr Adams – Proposed reasons for refusal (also supported by Cllr Bisnauthsing):

2.3.1 *The application is not in accordance with:*

Policy DE1 A & B
Policy SP3 A & C

2.4 Cllr Crawford – Proposed reasons for refusal:

2.4.1 *(The application) does not in my opinion comply with SP3 a, c and d.*

2.4.2 *SP3a. it is within a substantially built up frontage or re-development opportunity (previously development land). It does not comply with this as it not a re-development or previously development land. It is a very narrow back garden.*

2.4.3 *SP3b. it does not cause harm or unacceptable impact upon the occupiers amenity of adjacent properties. It does not comply with this as it does cause an impact upon the next door neighbours. Instead of being able to sit at the bottom of their garden in peace they would be sitting next to a very close proximity brick wall, with the additional noise a household would bring.*

2.4.4 *SP3d.and it is in keeping with the character of the area and is sensitive to the setting of adjacent properties. It does not comply with this as the design is not in keeping with the properties adjacent, as no other building in the vicinity has such a dramatic pitch to the roof. So it in not in keeping. It is not sensitive to the setting.*

2.4.5 *I also find that this is over development, as the site is so very narrow.*

2.4.6 *There would be the additional noise from this property.*

2.4.7 *Also the character of these terrace houses is that they all had very long and narrow gardens. This would dramatically affect the character of these properties. Having a bungalow sat there, it would be visually intrusive for all properties.*

2.4.8 *Also have concerns with the egress from the property onto the road and the amount of cars using the driveway.*

2.5 Cllr Milnes – Proposed reasons for refusal:

2.5.1 *The proposed development is on a very narrow garden plot behind existing terraced properties – each with a narrow garden.*

2.5.2 *This development would:*

- *constitute overdevelopment of the site;*
- *impact negatively on the character and nature of the adjoining gardens and be at odds with the built form of that immediate area and not in keeping with it's context;*
- *adversely increasing the density of development with little amenity space around the new build and decreasing the amenity space of the original dwelling;*
- *impact negatively on the private garden amenity of the other residents, would be intrusive and increase noise and disturbance in a quiet backland setting.*

2.5.3 *There is no frontage to the site, other than by sharing a driveway. It is therefore considered to be backland development of a garden and not previously developed land.*

2.5.4 *The proposal is therefore contrary to:*

- *Local Plan Policies:*
- *SP3 a,c,d;*
- *SP2;*
- *DE1 a,b,c*
- *NPPF: Section 5 particularly para 70; Section 12.*

3 Comments of the Interim Head of Planning

3.1 The proposed reasons for refusal relate to the following key points:

- Backland Development
- Impact on the character of the area
- Impact on residential amenity
- Highways safety

3.2 Backland Development

3.3 Whilst the proposal can reasonably be described as backland development being set back from the prevailing pattern of development, it is important to note that there is no blanket presumption against backland development either in the Local Plan or the NPPF. Backland development can often make efficient use of vacant or underused land in built up areas. However (as set out in NPPF paras 70 and 122) this must be balanced against the desirability of maintaining an area's prevailing character and setting (including resisting inappropriate or harmful development of residential gardens). Therefore, each case must be looked at on its own merits.

3.4 In this case Local Plan policy SP3, in principle, allows infill development on greenfield sites within substantially built up frontages. Whilst it is acknowledged that the proposed dwelling is set well back from neighbouring properties, as a matter of planning judgement, it can reasonably be argued that the general relationship of this long and narrow plot to its neighbours constitutes a gap within the frontage rather than a narrow access that widens out significantly behind existing development.

3.5 Some limited weight can also be given to the Emerging Deepings Neighbourhood Plan (DNP) which has now been examined by the Examiner and found to be sound subject to some minor modifications. DNP Policy DNP2 allows infill development and defines it as *“the filling of a small gap in an otherwise continuous built-up frontage or on other sites within the settlement where the site is closely surrounded by buildings”*.

3.6 Officers note Members concerns about backland development but advise that this in itself is unlikely to be a reason that could be defended successfully through an appeal. Officers advise that any reason for refusal should be based on any site specific adverse impact of this proposal on the character of the area or amenity.

3.7 **Adverse impact on the character of the area**

3.7.1 This is a matter of planning judgement, which in this case is balanced and requires a degree of judgment. The proposed dwelling would be well set back from the road and apart from the wider surrounding development, would be adjoined by domestic gardens of neighbouring properties on three sides. It would also be relatively tall in relation to the narrow plot. In this sense would be at odds with the prevailing character of numbers 23 – 33 Halfleet which have a road frontage and long rear gardens.

3.7.2 Whilst officers recommend that the impact is acceptable, taking into account the built up nature of the wider area and local patterns of development including nearby backland development, it would not be unreasonable to reach a different conclusion. Such a reason for refusal could be defended through an appeal.

3.8 **Impact on residential amenity**

3.9 Again, this is a matter of planning judgement. In terms of loss of light and noise and disturbance, the impact is considered to be well within the limits of acceptability and would not be greater than would reasonably be expected in a low density built up area, especially given the length of neighbouring gardens and separation distances between dwellings. Officers advise that such a reason for refusal would be unlikely to be a reason that could be defended through an appeal.

3.9.1 However, in terms of overlooking and loss of privacy, clearly this is more finely balanced. The proximity of first floor dormer windows to adjacent gardens and orientation directly towards them has the potential to result in an adverse impact. Officers consider that the impact could be made acceptable through conditions requiring these windows to be obscure glazed with restricted opening (depending on whether this would be compliant with building regulations). However, it would not be unreasonable to reach a different conclusion and such a reason for refusal could be defended through an appeal.

Highway safety

- 3.10 The site is considered to be in a sustainable location, well connected to existing services and facilities. The potential traffic impacts and any highway safety implications associated with the development have been assessed by Lincolnshire County Council (as local highway authority) who have not objected to the proposal. The Council has no substantive evidence to support and contrary conclusion and therefore this is not considered to be a reason that could be defended through an appeal.

4 Conclusion

- 4.1 In reaching a decision on the application, the Committee must consider the proposals in the round having regard to relevant Local Plan and national policies together with any other relevant material considerations. The Committee must also consider whether any proposed reasons for refusal are substantive enough to be defensible at appeal.
- 4.2 In conclusion, and in line with the Council's Constitution, the Interim Head of Planning has considered fully the written reasons for refusal provided by the Councillors who wished to refuse the application. The Interim Head of Planning considers that the proposed reasons relating to harm to the character of the area and overlooking and loss of privacy are substantive enough to be defended at appeal. Whilst the officer recommendation remains one of approval, the following reason for refusal is considered to be defensible at appeal should members remain minded to refuse the application.
- 4.3 The proposed development would appear incongruous and at odds with the prevailing pattern of development resulting result in harm to the character and appearance of the area. Furthermore, the dormer windows by reason of their orientation and proximity to the neighbouring property's garden would result in overlooking and loss of privacy, detrimental to the residential amenities of the occupiers of the neighbouring property. This would be contrary to the SKDC Local Plan Policies SP3 and DE1 and there are no other overriding material considerations that indicate otherwise.