
Appeal Decision

Site visit made on 3 January 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 18th January 2017

Appeal Ref: APP/L2440/W/16/3157881

10 The Broadway, Oadby, Leicestershire LE2 2HD

- 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 Rikesh Majithia against the decision of Oadby & Wigston Borough Council.
 - The application Ref 16/00248/FUL, dated 12 May 2016, was refused by notice dated 4 August 2016.
 - The development proposed is for the erection of a single 4 bed detached house.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single 4 bed detached dwelling house at 10 The Broadway, Oadby, Leicestershire LE2 2HD in accordance with the terms of the application, Ref 16/00248/FUL, dated 12 May 2016 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Proposed Site Plan Ref 15/451/P01; Proposed Plans and Elevations Ref 15/451/P02; Option 4 Feasibility Ref 15/451/F/10; Arboricultural Protection Plan 01A and Arboricultural Survey Plan 01.
 - 3) No development shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
 - 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping to include boundary treatment together with an implementation programme. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development to comply with the approved Arboricultural Protection Plan. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.
 - 5) Prior to commencement of development a detailed method statement and drawings of all underground works and additional precautions measures
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required to prevent damage by root action, if any, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, extent and depth of all excavations for drainage and other services, in relation to the trees to be retained on the site. The construction works shall only be completed in accordance with the approved method statement and plans.

- 6) Prior to the first occupation of the dwelling hereby granted the access, and parking and turning areas shown on the approved plans shall be provided in a bound material and thereafter shall be made available at all times for their designated purposes. If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected to the vehicular access they shall be set back a minimum distance of 5 metres rear of the highway boundary and shall open away from the highway.
- 7) Prior to the first occupation of the dwelling hereby granted permission pedestrian visibility splays shall be provided on the Highway boundary as shown on the submitted plan with nothing placed or allowed to remain forward of the said splays that exceeds 600mm in height above the adjacent carriageway unless otherwise first agreed in writing by the Local Planning Authority.
- 8) Prior to the commencement of development a scheme for the disposal of foul sewerage and surface water drainage for the site (based on sustainable drainage principles) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the first dwelling and shall be maintained as such thereafter.
- 9) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the first floor and above of the western elevation.

Main Issue

2. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

3. The appeal site comprises part of the garden curtilage area to No.10 The Broadway, which is a corner plot located fronting both The Broadway and The Fairway. The host property has its principal aspect facing The Broadway and is a mature two storey property lying in a similarly mature and established

- residential area. There is no dispute that the site lies within the principal urban area and in principle is a suitable location for housing development.
4. The proposal would see the erection of a four bed two storey property that will utilise the northern access onto The Broadway, which is one of two existing access points that presently serves the host property. This access point is at the corner of the two roadways. No.10 contains a large number of mature and semi-mature trees of varying quality, including several fruit trees. However, these trees as a group add to the sylvan character of the surrounding area.
 5. The Council's principal concern relates to its contention that the proposal amounts to 'garden grabbing', which would be in conflict with the Oadby Arboretum Landscape Character Area, which identifies that the surrounding area is open and verdant being mainly characterised by large dwellings. In turn, the Council considers that the proposal would be contrary to the Council's Core Strategy (CS) policies, CS 14 that requires the design of developments to be of a high quality that respects local character and CS 15 that seeks to ensure that development proposals protect and enhance the distinctive landscape and historic character, thereby reflecting prevailing quality, character and other features. Moreover, Saved Local Plan Housing Proposal 13 explains that infill development in particular should not be permitted where it has an adverse impact on local character or on the living conditions of neighbouring properties.
 6. From what I saw at my site visit, whilst there is an attractive sylvan quality and character derived from the opportunities presented by large plots within this part of Oadby, this character has been denuded in the immediate area of the appeal site. Here, there are properties of various sizes and plot ratios with the result that there is no cohesive or definable character and a denser pattern of development prevails. The appellant provides an analysis of plot/curtilage size and dwelling size within a 250m radius of the appeal site. Whilst the assessment concedes that there are a number of larger plots within the study area, I agree with the findings that the proposed development would not appear cramped or out of place in this setting.
 7. The contribution made by the trees on the site's northern boundary to the verdant appearance of the surrounding area would not be materially altered.
 8. I consider that the architectural design of the dwelling and the proposed materials would reflect those in the surrounding area and I am mindful that this has not been contested by the Council.
 9. In conclusion, the proposal by virtue of its scale, density and layout would not cause any harm to the character and appearance of the area and would not constitute overdevelopment. Consequently, I conclude that the proposed development would comply with the above policies in terms of preserving the visual and landscape character of the area, the distinctiveness of the locality, particularly in terms of design and scale and its relationship to its surroundings; is of high quality design; integrates well with the site; and is appropriate in terms of scale, height, form and appearance. I also consider that the proposal complies with the Oadby Arboretum Landscape Character Area that identifies that designs should respect and be sympathetic to the character and immediate townscape in terms of pattern, scale, materials and form. In addition, the scheme is in accordance with Section 7 of the National Planning Policy Framework, which requires good design.

Other matters

10. Reference is made by the parties to the availability of a five year's supply of deliverable housing in the Borough. However, given that the site is located within the principal urban area, I do not consider that this matter has any relevance to my consideration of this appeal.

Conditions

11. The Council has suggested 15 planning conditions. I have assessed these against the advice contained within the Planning Practice Guidance and have deleted some and amended others. I have imposed conditions specifying the period for commencement of development and plans the subject of this approval on grounds of certainty.
12. To ensure the suitable appearance of the proposal, conditions are necessary that require the details of all external materials and; the submission of a landscaping scheme and tree and root protection measures.
13. In the interests of highway safety conditions are necessary to ensure that suitable access and parking facilities are provided and pedestrian visibility splays are provided and maintained.
14. To ensure that the proposal does not result in the pollution of water environment and protects the general amenity of the area, a condition is required to ensure that details of both foul and surface water disposal are submitted and approved prior to occupation and maintained thereafter.
15. In the interests of the living conditions of the neighbouring property, permitted development rights are removed by condition in relation to windows/dormer windows or their openings in the western elevation of the dwelling house at first floor level or above. I do not consider that removal of permitted development rights for structures or extensions are necessary in this case.

Conclusion

16. For the reasons set out above and considering all other matters raised, the appeal should succeed.

Gareth W Thomas

INSPECTOR