
Appeal Decision

Site visit made on 9 January 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 18 January 2017

Appeal Ref: APP/F1040/W/16/3158335

464 Burton Road, Midway, Swadlincote, Derbyshire, DE11 0DW

- 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 David Sheridan against the decision of South Derbyshire District Council.
 - The application Ref: 9/2016/0691 dated 5 July 2016, was refused by notice dated 26 August 2016.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I am also dealing with another appeal by the same appellant at this address for an advertising board (Ref: APP/F1040/Z/16/3163329). However, the two appeals are unconnected and the subject of separate decisions.

Main Issues

I consider there are three main issues in this case. Firstly, the effect of the proposed dwelling on the character and appearance of the surrounding area; secondly, the effect of the proposal on highway safety; and thirdly, the effect of the proposal on the living conditions of the occupiers of No 462 Burton Road and No 466 Burton Road in relation to overlooking, privacy, and potential noise disturbance.

Reasons

3. At the heart of National Policy as stated in paragraph 14 of the *National Planning Policy Framework* (the Framework), is a presumption in favour of sustainable development, and for decision making this means 'approving proposals which accord with the development plan without delay'. Notwithstanding this general presumption, Paragraph 2 of the Framework reiterates the statutory position in Section 38(6) of the *Planning and Compulsory Purchase Act 2004* that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Character and Appearance

4. The appeal site comprises part of the rear garden of No 464 Burton Road. The appeal site is at a significantly lower level than the house and the neighbouring
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- dwelling. The proposed dwelling would occupy part of the garden where the levels were changed and a large hole excavated to accommodate a swimming pool, although this work was not completed. The site lies within the settlement boundary although directly abuts open countryside to the north.
5. Policy H1 of the *South Derbyshire Local Plan Part 1*, adopted 2016 (LP) states that development of all types within the settlement boundaries will normally be acceptable in principle, and that the merits of each individual site will be considered through the development management process. LP Policy S2 relates to sustainable development and states that the Council should grant planning permission unless material considerations indicate otherwise.
 6. I acknowledge that the pattern of development in the wider area is more varied with a wide mix of housing types and some development in depth, some examples of which are referred to by the appellant. However, to my mind the appeal site relates most closely to the linear pattern of the ribbon development extending along the ridge from No 454 Burton Road westwards, rather than to the area to the east where some 'in depth' development can be found. Although some of the rear gardens in the vicinity contain buildings and structures such as sheds and garages, there is no other tandem residential development in the vicinity.
 7. Due to the topography, I accept that the proposed dwelling would not easily be seen from the road frontage. However, this is an exposed location and the dwelling would be clearly visible from open countryside to the north and detract from the currently open aspect. The fact that there are no public footpaths nearby from which the dwelling could be seen in close quarters does not help to justify the proposal in any way. Even though each application and appeal is considered on its own merits, as other nearby properties present similar opportunities, allowing the appeal would set a precedent which others could follow, and the cumulative effect of this would lead to more serious harm to the character of the area.
 8. LP Policy BNE1 refers to design excellence and requires new development to be well designed and respond to a number of design principles including local character and context, and having regard to valued landscape, townscape and heritage characteristics. Policy BE4 requires new development to protect and the character, local distinctiveness and quality of the landscape through the careful design and sensitive implementation of new development. The Council's *Housing Design and Layout Supplementary Planning Guidance* (SPG) has similar aims, and says inappropriate design that does not respect local distinctiveness will be resisted unless the applicant can justify why a particular design has been chosen.
 9. I share the Council's view that somewhat unorthodox design of the dwelling would fail to respond to local character and context, and to my mind it would appear incongruous and out of keeping with other dwellings nearby. Existing properties along Burton Road tend to be fairly conventional two storey houses and bungalows with pitched roofs, whereas the proposed dwelling has a bulky, somewhat box-like design with a particularly unusual roof arrangement, being part flat-roofed viewing terrace and part open-fronted area with a mansard roof over. The north-facing elevation would consist almost entirely of large picture windows and balconies, whereas in contrast the south elevation would appear oppressive, with a large blank expanse of brickwork relieved by only

two window openings. The side elevations would also be rather ungainly, being part flat-roofed/ two-storey, and part three-storey/ pitch-roofed.

10. I also have concerns in relation to some discrepancies on the submitted drawings. For example, although continuous balconies are shown on the elevations, these do not appear on the floor plans. Also what happens at roof level is unclear, with the purpose of the open-fronted roofed accommodation not being stated, and with no access to the roof level apart from a narrow external spiral stair. The appellant says some cues for the design have been taken from a recently constructed dwelling in a prominent position to the north-west. However, even though similar materials are used, that dwelling is far more traditional in appearance and in keeping with the local character.
11. Paragraphs 56 and 57 of the Framework advocate high quality design, saying that that good design is a key aspect of sustainable development that is indivisible from good planning. Whilst I accept there is always scope for good, innovative design, I consider that the appeal proposal manifestly fails to achieve these objectives. Overall, I conclude on this issue that the dwelling would cause significant harm to the character and appearance of the surrounding area. It would conflict with LP Policies BNE1 and BNE4, advice in the SPG, and National Policy in the Framework.

Highway Safety

12. Access is proposed via a new driveway from Burton Road at the western extremity of the site frontage. The Highway Authority states that the minimum visibility splays required at the access would be 2.4m back from the carriageway edge and 43m in each direction along the highway. It is evident that this standard of visibility cannot be achieved in the western as it relies on land outside the appellant's control. Nonetheless, the appellant considers that traffic speeds are sufficiently low such that traffic entering and leaving the site could do so safely, and traffic approaching the access would be aware of slowing down or emerging vehicles using the proposed access. The appellant also says there are many instances locally where these standards have been applied flexibly where full visibility sightlines cannot be achieved.
13. However, I find no reason to disagree with the professional views of the Highway Engineer. Any additional turning manoeuvres onto or off a road of this type represent a potential hazard and further potentially hazardous situations could arise as visitors to the property unfamiliar with its location may have difficulty in seeing in advance where the access is. This too would impede the free and safe flow of traffic leading to danger and inconvenience to other highway users.
14. I therefore conclude on this issue that the proposal would be harmful to highway safety. As such, it would conflict with LP Policy INF2 and Paragraph 32 of the Framework which makes it clear that all development proposals should seek to ensure that safe access to and from sites can be achieved.

Living Conditions

15. Side-facing windows in the proposed dwelling would face towards the adjacent bungalow to the east (No 462), which has a conservatory to the rear with dormer bedroom above. Notwithstanding the oblique angles and change in levels, clear views would be obtained from the 'exercise room' window towards

No 462's rear-facing windows and conservatory, and the required separation distance of 21m recommended in the SPG could not be achieved. This would result in unacceptable overlooking and reduction in privacy levels.

16. The adjacent bungalow to the west (No 466) lies adjacent to the proposed access, and has a habitable room window facing towards it. The proposed driveway would be so close to the common boundary that there would be no space for any meaningful planting or screening that might help mitigate the potential noise and other disturbance arising from the coming and going of vehicles on the proposed drive. As such I consider that the new vehicle activity in this area would have an adverse impact on the living conditions of the occupiers of that property.
17. I therefore conclude on this issue that the proposal would materially harm the living conditions of the occupiers of No 462 and 466 Burton Road, contrary to the aims of LP Policy SD1 concerning amenity and environmental quality.

Conclusion

18. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. It is therefore necessary to determine whether the proposal is sustainable in the wider realm in the context of the wider Framework. Paragraph 7 identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The provision of new housing would represent a social benefit, albeit a very modest one, and in addition there would be some support for local services and amenities, thus amounting to an economic benefit. I also accept that there are good transport links to the town centre, employment, shopping and other facilities.
19. However, my conclusions with regard to the harmful environmental impacts of the proposal on the character and appearance of the area, highway safety, and the living conditions of the occupiers of neighbouring property represent significant and overriding objections which must be decisive. The adverse harm I have identified would demonstrably outweigh and potential social and economic benefits of the appeal scheme. For these reasons I conclude that the proposal would not be consistent with the principles of sustainable development as it conflicts with the policies of the development plan and the Framework when taken as a whole. Therefore the presumption in favour of such development does not apply.
20. For the reasons given above and taking into account all other matters before me, including the representations of local residents, I conclude that the appeal should fail.

Nigel Harrison

INSPECTOR