
Appeal Decision

Site visit made on 21 February 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 01 March 2017

Appeal Ref: APP/K2420/W/16/3163760

62 Forresters Road, Burbage, Leicestershire LE10 2RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs V & T Hunter against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 16/00835/OUT, dated 8 September 2016, was refused by notice dated 3 November 2016.
 - The development proposed is single detached dwelling with vehicular access.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is for outline planning permission with access, layout and scale to be determined at this stage and all other matters reserved.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area; and,
 - the living conditions of occupiers of 2 Rosewood Close, with particular regard to outlook and light.

Reasons

Character and appearance

4. The appeal site forms part of the rear amenity space of 62 Forresters Road (No 62), which occupies a corner plot between Forresters Road and the cul de sac of Rosewood Close. The development would comprise a modest single storey dwelling whose northern flank wall would be approximately 1 metre from the plot boundary, and which would project beyond the building line of both the host dwelling and No 2.
5. The development would front Rosewood Close and as such would be read primarily in the context of those dwellings. I appreciate that not all the dwellings on Rosewood Close have flat elevations but the evidence before me¹ indicates that there is an underlying consistency of a forward building line

¹ Dwg. 4428/01

which is more or less in line with, or slightly behind, the flank walls of the dwellings fronting Forresters Road. The main front elevation of the development would be approximately 1.5 metres forward of the adjacent projection of No 2, and the development's own projection would be two metres forward of that. That same projection would be forward of the flank wall of No 62 by some 1.5 metres. Consequently, the development would be forward of the established building line on Rosewood Close. As it would also be on a raised plot relative to the road, I conclude that it would be prominent and incongruous in the context of the surrounding building pattern.

6. I also agree with the Council that the plot width would be significantly less than those of other dwellings on Rosewood Close and nearby plots on Forresters Road. The appeal site is 8.25 metres wide, whereas the block plan shows the narrowest plots in the vicinity as being some 11 – 12 metres wide. I disagree with the appellant that the appeal site reflects the local pattern of development as this is a significant difference. As such, the appeal plot width would also be incongruous in this context.
7. The appellant argues that the rear garden of No 62 is not public realm. Nonetheless it provides visual separation between the Forresters Road frontage and the building pattern of Rosewood Close, and contributes to the general openness of the street scene. As such I give this argument little weight.
8. The appellant has submitted examples of similar projections in the building line nearby. Having reviewed these I have concluded that in most cases the structure forward of the building line is an ancillary building, the projection is limited or aligns with the frontage of an adjacent road, or the examples are situated within a tighter and more irregular building pattern where the projection is not so prominent.
9. One example, on Falconers Green, is a single storey dwelling which projects beyond the adjacent two storey dwellings and I concur with the appellant that it projects beyond the underlying building line. However, it is not a corner plot, as is the case before me, and it is not elevated above the road. Furthermore, there is no evidence before me to indicate its planning policy context and whether it was approved under the Council's current development plan. In any case, existing development does not justify perpetuating harm. Consequently, I give these examples limited weight.
10. I also concur with the Council that the examples of dwellings located at the corners of Higham Way and Far Lash have limited comparability to the appeal before me. At the junction with Higham Way, pairs of semi-detached dwellings are angled on the corner plot which retains openness, and at Far Lash one corner contains a bungalow fronting Far Lash and the other has a dwelling fronting Forresters Road, with garage access on Far Lash. Neither appears to have an infill development on former amenity land abutting the Far Lash frontage and as such I also give this argument little weight. Furthermore, I am not satisfied, as the appellant suggests, that the Council has based its objection on the principle of buildings occupying corner plots. The evidence before me indicates that the objection arises from the width of the plot and the relationship between the position of the proposed dwelling and the adjacent building pattern.
11. The appellant argues that the development would break the monotony of the street pattern but there is sufficient variability in style and form in the area to

give diversity, without significant deviation from the underlying building pattern.

12. In the light of the above, I consider the development would appear cramped and incongruous in the street scene, which would be detrimental to character and appearance of the area. This would be contrary to Policy DM10 of the Local Plan² (LP) which requires development to complement or enhance the character of the surrounding area with regard to scale, layout and density.

Living conditions

13. The development would be located to the south of 2 Rosewood Close (No 2) which has windows serving habitable rooms on its flank elevation. Although I appreciate that the development has been sited as to be forward of these windows, it would nonetheless be sited to the south of No 2 and I concur with the Council that there would be direct overshadowing of these windows in the late afternoon. The appellant argues that the most affected window serves a non-habitable room but bedrooms are considered habitable rooms. It is also argued by the appellant that the existing 1.8 metre timber fence along the plot boundary would restrict light entry into these rooms, with which I concur. However, this would not justify a development that would restrict the further entry of direct sunlight and diffused daylight.
14. The appellant has drawn to my attention that No 62 previously had large conifers in its rear garden which overshadowed No 2. However, the shade cast by individual specimens in No 62's garden would be less extensive than that cast by a building, and furthermore the evidence before me indicates that the conifers were some distance from the plot boundary.
15. I appreciate that permitted development rights would allow the construction of ancillary buildings of up to 2.5 metres in height against the plot boundary, and to a greater height further within the plot. Whilst such construction would also have significant overshadowing effects, I am not satisfied that this justifies the development. In any case, there is no evidence before me to indicate that the building of extensive ancillary buildings is so likely as to represent a fall-back scheme and I give this argument little weight.
16. There would also be an enclosing effect in outlook for occupiers of No 2, as the development would block the existing open outlook from windows on No 2's southern flank wall.
17. As such, I conclude that there would be overshadowing and loss of diffused light from the development for occupiers of No 2, particularly in winter months when the sun is lower in the sky, as well as some limited overbearing effect. This would be detrimental to the living conditions of occupiers of No 2. Whilst these concerns would not be sufficiently adverse to warrant dismissal of the appeal in the absence of other issues, the harm I have identified reinforces my concern that the proposals represent cramped development.
18. In the light of the above, I conclude that the development would be contrary to LP Policy DM10 which states that development should not have a significant adverse effect on the amenity of nearby residents, including matters of lighting and visual intrusion.

² Hinckley and Bosworth Borough council, Site Allocations and Development Management Policies DPD, adopted July 2016

Other matters

19. I appreciate that the development would make a small contribution to the diversity of local homes, and a limited contribution to the local economy from its construction and future occupation. Nonetheless this does not outweigh the harm I have identified above. I disagree with the appellant that the provision of a new dwelling necessarily outweighs the loss of garden land, especially as Paragraph 53 of the National Planning Policy Framework (the Framework) states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
20. The appellant has also drawn attention to Paragraphs 47 -55 of the Framework with regard to the need to provide more homes and makes specific reference to Paragraph 49 of the Framework which requires housing applications to be considered in the context of the presumption of sustainable development. However, there is nothing in the evidence before me to indicate that I should not give full weight to the relevant LP policies, and consequently these policies are material considerations.
21. The appellant also argues that 1 Rosewood Close has a similar footprint to the development. However, I observed on site that 1 Rosewood Close is a two storey dwelling and its front elevation is in line with the flank wall of the neighbouring dwelling fronting Forresters Road, as well as its neighbour on Rosewood Close. Consequently, it is not comparable to the appeal before me which would be single storey and project beyond the building line.
22. I also appreciate that Rosewood Close is characterised by a variety of dwelling sizes, including modest bungalows, but this does not alter my conclusions in respect of the limited plot width and positioning of the dwelling, or the loss of visual separation between Forresters Road and Rosewood Close. I agree that the projection beyond the established building line is modest, but it is accentuated by its proximity to the road.
23. With regard to the small difference in ridge line between the development and No 2, and issues around the size of the proposed parking bay, these have not been determinative in my reasoning.

Conclusion

24. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR