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# Appeal Decision

Site visit made on 28 February 2017

**by David Troy BSc (Hons) MA MRTPI**

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

**Decision date: 24 March 2017**

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**Appeal Ref: APP/X2410/W/16/3161214**

**39 Latimer Road, Cropston, Leicestershire LE7 7GP**

- 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 Leslie McLintic against the decision of Charnwood Borough Council.
  - The application Ref P/15/1394/2, dated 8 July 2015, was refused by notice dated 6 May 2016.
  - The development proposed is erection of a four bed dwelling with associated carport.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The Council have confirmed that the Thurcaston and Cropston Neighbourhood Plan (NP) referred to in the Council, appellant and third party representations was made on 15 December 2016 since the appeal was submitted. The policy aims in relation to housing and the village of Cropston are similar to the earlier submission version of the proposed NP and so neither of the main parties has been prejudiced by this change in policy circumstances.

## Main Issues

3. The main issues are (i) the effect on the living conditions of the occupiers of 37 Latimer Road with particular regards to privacy and (ii) whether the proposal would represent a suitable site for housing development having regard to principles of sustainable development.

## Reasons

### *Living conditions of the occupiers of the neighbouring property*

4. The appeal site forms part of the garden area at the rear of No. 39 Latimer Road, a detached two storey dwelling on a corner plot located at the junction of Latimer Road and Sandham Bridge Road in the village of Cropston. The proposal would involve the construction of a four bedroomed, two storey detached dwelling and a car port with access off Sandham Bridge Road.
  5. The rear elevation of the proposed dwelling would be located about 6m from the common boundary with No. 37 Latimer Road (No. 37). Bedroom windows would be located at first floor level on the rear elevation of the proposed
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- dwelling. The ground levels of the appeal site slope towards the rear garden of the property at No. 37.
6. The Council's Supplementary Planning Guidance on Backland Development and Tandem Development 2001 (SPG) recommends a minimum distance of 10.5m from a principal elevation with main windows to any other adjacent garden area bordering onto the new development.
  7. I note the appellant considers that the proposal would have a comparable relationship to the existing dwellings. However, whilst the proposed development would be located some distance from the rear elevation of No. 37, it would be situated in close proximity to the rear garden of the adjacent property. The occupants of No. 37 would use this area to carry out gardening and leisure activities where they would be observed at close quarters by the future occupants of the proposal when relaxing and sitting out, particularly during the summer months. Whilst new boundary treatment and fencing would reduce the impact of the proposal to some degree, given the siting and design of the proposal, the separation distance between the properties and the ground levels, I consider the proposal would result in an unacceptable level of overlooking to the rear garden of No. 37 and a significant change in the living conditions.
  8. Consequently, I conclude that the proposal would result in harm to the living conditions of the occupiers of No. 37 with particular regard to privacy. The development would not accord with the overall amenity aims of Policy CS2 of the Charnwood Local Plan 2011 to 2028 Core Strategy 2015 (CS), Saved Policy EV/1 of the Charnwood Local Plan 2004 (LP) and the SPG. These policies and guidance, amongst other things, seek to ensure new developments provide a satisfactory level of amenity and protect the amenities of the nearby properties.

#### *Sustainable development*

9. The appeal site falls within the limits of development to which Saved Policy ST/2 of the LP applies. This allows for new proposal sensibly related to the existing pattern of development within the limits identified in the LP. The Council, however, outlines that this policy is out of date and has been effectively superseded by the Council's Development Strategy set out in the CS and the NP that identifies no limits of development for Cropston.
10. The Council's Development Strategy is set out in Policy CS1 of the CS. This policy defines a settlement hierarchy, with the aim of directing most development to the district's larger settlements and lesser amounts to lower tiers in the hierarchy. Cropston falls within the lowest tier of the hierarchy, being defined as a Small Village and Hamlet, where a specific local need for development will be met where it has been identified by a Neighbourhood Plan or other appropriate community-led strategy. This approach is supported by the NP that identifies a need for 3 open market homes in Cropston for those with a local connection on small infill or redevelopment/conversion sites. Whilst I note the appellant comments regarding the interest from prospective purchasers of the appeal site, there is no indication that the appeal scheme is specifically identified for those with a local connection, in which the Council's countryside policies apply.

11. Residential development in the countryside is restricted to particular types of development to support the rural economy, the re-use or adaptation of rural buildings, meet affordable housing needs and contribute to a low carbon economy. These types of development are set out in detail in Policy CS11 of the CS and Saved Policy CT/1 of the LP. There is no indication that the proposed dwelling would meet any of the criteria listed and as such it follows that the proposal would be contrary to Policies CS1 and CS11 of the CS and Saved Policy CT/1 of the LP. I attach significant weight to these policies together with the NP in making my decision.
12. In circumstances where the relevant adopted local plan policy is out of date, Policy CS25 of the CS in line with the approach set out in the National Planning Policy Framework (the Framework) identifies how decisions should be approached. Furthermore, the purpose of planning is defined in the Framework as being to contribute to the achievement of sustainable development. In determining applications local planning authorities should apply the presumption in favour of sustainable development. I attribute substantial weight to the provisions of the Framework.
13. The appellant states that the proposal would be located within the confines of the village and the potential future occupants of the proposed dwelling would have access to facilities and service by foot and public transport. Policy CS1 of the CS seeks to reduce the need to travel and to ensure that development proposals demonstrate that there would be good access to key services and facilities. Furthermore, Paragraph 55 of the Framework sets out that housing should be located where it will enhance or maintain the vitality of rural communities. In this case, there is a notable lack of local services and facilities in the locality.
14. This would therefore necessitate the need to travel to day to day services and facilities in Leicester, Loughborough and other nearby villages. All of these settlements are some distance away. The appellant has indicated that a bus service runs to and from the nearby settlements on an hourly daily basis during the day Monday to Saturdays and a bus stop is situated close to the site. However, no information has been provided about the frequency of this service on Sundays and in the evenings. Therefore, the proposal would be sufficiently isolated in this rural location, such that the future occupants of the proposed development would be reliant on the use of the car to reach day to day services, facilities and employment elsewhere. A similar conclusion was drawn by the Inspector for a planning appeal for one dwelling at 132 Station Road Cropston in 2015<sup>1</sup>.
15. The proposal would not, therefore, result in a pattern of development which would give priority to pedestrian and cycle movements and have access to high quality public transport facilities, in accordance with paragraph 35 of the Framework. It would be contrary to the aims of Policy CS1 of the CS and the Core Planning Principle set out in paragraph 17 of the Framework, in particular Core Principle 11. These aim to direct most development to the larger towns and villages in the settlement hierarchy and actively manage patterns of growth through the plan-led system to make the fullest possible use of public transport, walking and cycling, to which this proposal would not conform.

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<sup>1</sup> APP/X2410/W/15/3003256

16. The appellant considers that the proposal would form a sustainable form of development that would provide some social and economic benefits, through contributing to the mix of housing and local services in the area, and some environmental benefits, associated with the design of the appeal scheme. However, a single dwelling would make a limited contribution to the vitality of this rural community and, more generally, to the housing stock in the district. There is not any evidence before me to suggest that local services are at risk such that a single dwelling would secure their retention and I do not consider that these factors would outweigh the site's significant locational shortcomings.
17. Therefore, for the reasons given above, I consider that the adverse impacts arising from locating the proposed development in this rural location, together with harm identified to the living conditions of the occupiers of the neighbouring property, would conflict with the environmental dimension of sustainable development. In my view, this would be sufficient to significantly and demonstrably outweigh the scheme's benefits.
18. The proposal would not therefore amount to sustainable development in terms of the Policy CS25 of the CS and the Framework. This and the conflict with Policies CS1 and CS11 of the CS, Saved Policy CT/1 of the LP and the NP as set out above are material considerations sufficient to outweigh the compliance with Saved Policy ST/2.

### **Other matters**

19. I have noted the issues raised by the appellant regarding the way in which the application was processed by the Council. However, whilst I appreciate the appellant's concerns and complaints regarding the advice given and the costs in submitting the planning application and plans, these are matters to which I can attach only limited weight in making this decision.
20. I have considered that the appellant's comments regarding the CS being adopted after the submission of the planning application. Whilst this is correct, it was adopted prior to the Council's determination of the application and the relevant policies were identified in the Council's decision notice and the appellant has had the opportunity during the appeal process to comment on this matter. I also note the appellant's comments regarding the availability of suitable sewage connections, drainage, gas and electricity to the site, but these factors would not overcome the adverse effects identified above. I therefore accord these matters limited weight.
21. I have noted the objections from the Thurcaston and Cropston Parish Council and local residents to the proposal. However, in light of my findings on the main issues of the appeal, my decision does not turn on these matters.

### **Conclusion**

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Troy*

INSPECTOR