
Appeal Decision

Site visit made on 25 April 2017

by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/G2435/W/17/3168155

Land at Ashby Road, Coleorton, Coleville, Leicestershire LE67 8GE

- 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 Ms Rachel Walker against the decision of North West Leicestershire District Council.
 - The application Ref 16/00404/FUL, dated 7 April 2016, was refused by notice dated 7 December 2016.
 - The development proposed is erection of a sustainable, single storey, two bedroom house.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a sustainable, single storey, two bedroom house on Land at Ashby Road, Coleorton, Coleville LE67 8GE, in accordance with the terms of application Ref: 16/00404/FUL, dated 7 April 2016, and subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The address of the site is indicated on the application form as being the 'Corner of Ashby Road and The Moor'. The Council's description of the site location is more accurate and I have used it in the banner heading and formal decision above.

Main Issues

3. The main issue in this case is whether the development proposed would be consistent with the principles of sustainable development having regard to the National Planning Policy Framework and the development plan, including the effect of the proposal on the character and appearance of the area.

Reasons

4. The application site is a roughly triangular area of land bounded by Ashby Road and The Moor and, to the north, by overgrown land bordering the A512. The site lies immediately adjacent to the Parish Millennium Garden, a small memorial garden. It consists primarily of grass and scrubland which provides a species rich habitat and is bounded by mature hedgerows and fencing. The existing vehicular access into the site, which is gated, is off Ashby Road.
5. The proposal is for the construction of a single-storey, flat-roofed detached dwelling on the site utilising the existing access, and an associated parking

area. The dwelling would have a modular design, constructed in insulated timber clad panels with a 'green' roof.

6. The site lies outside the defined 'Limits to Development' as set out in the adopted North West Leicestershire Local Plan 2002 (the Local Plan). Policy S3 of the Local Plan seeks to protect the countryside and only permits development outside the 'Limits to Development' in certain specified circumstances. In order to promote sustainable development in rural areas, the National Planning Policy Framework (the Framework) seeks to avoid new isolated homes in the countryside unless there are special circumstances and sets out a presumption in favour of sustainable development which the Framework outlines has three roles: economic, social and environmental.
7. It seems to me that whilst the site lies in the countryside for planning purposes, it is not an isolated location. Coleorton is a linear settlement, generally centred around The Moor and Lower Moor Road which are bisected by the A512. The site lies at the heart of the settlement in close proximity and within walking distance of the primary school and church on Ashby Road, shop/post office on Lower Moor Road and public houses on The Moor and Loughborough Road. The site is also close to a bus stop from which there are regular bus services to larger settlements. As such residents would have access to services that would meet daily needs and non-car options for transport to a wider selection of other services and employment.
8. Although the Council can demonstrate a 5 year housing supply of land, the proposal would provide an additional unit of accommodation, in an accessible location. Consequently development of the site would perform a social role. The development would also make an, albeit limited, contribution to the economy in terms of support for local services.
9. In terms of the environmental dimension of sustainability, the development would be innovative in that the dwelling would be built in a very limited time, reducing the need for significant journeys to and from the site. In addition it would achieve a high level of thermal performance and would generate sufficient solar power to be zero energy related. In that sense the proposal would help to contribute to using resources prudently - part of the environmental role of sustainability. Any harm to biodiversity as a result of the loss of areas of grassland would be mitigated by the provision of a 'green' roof and by allowing part of the site to be developed in a natural manner.
10. Both main parties acknowledge that the development would be located on a greenfield site. However, whilst one of the core principles of the Framework is to encourage the effective use of land by re-using land that has been previously developed, it seems to me that the use of a greenfield site is not specifically precluded. The site does not form part of the wider open countryside but is visually and physically well contained by its boundary treatment and by the roads on all three sides of it. There is no evidence before me to suggest that site is of agricultural benefit and I understand that prior to being maintained by the appellant it was overgrown.
11. On that basis the proposal constitutes sustainable development. However, the Framework is clear that good design is also a key aspect of sustainable development and it is to this issue that I now turn.

12. In the immediate vicinity of the site, the character of the area is defined by sporadic residential development and mature landscaping including some areas of woodland. Dwellings, including that on the opposite side of The Moor, are set in large plots and are partially screened from view from the highway by mature vegetation. That pattern continues further along Ashby Road and on Preston's Lane. Buildings are generally detached or semi-detached and are single storey or two storeys in height. Although generally traditional in terms of appearance, there is no consistency to the style, design or form of the buildings. To my mind this adds to the character and interest of the area.
13. The proposed dwelling would be modest in terms of its size and form and its design and materials would be simple. The proposed timber finish would not be inappropriate in the context of its setting. The dwelling would be situated roughly centrally on the plot and, given its low height and the existing boundary treatment, it would be partially concealed from view from the public highway. Appropriate additional landscaping could be secured by planning condition. Consequently the dwelling would not be unduly prominent in the street scene. Moreover, it would reflect the prevailing pattern of development locally.
14. Given that the site does not form part of the open countryside, and is visually well contained, I am not persuaded that its development would appear incongruous or that it would erode the character of the countryside. I accept that the building would have a contemporary rather than traditional design. The timber finish and large areas of glazing are an integral part of that design. The Framework advises, at paragraph 60, that decisions should not impose particular styles or tastes. The modern design of the building would add to the variety of styles in the area and its modest appearance would not compete visually with neighbouring dwellings or have an imposing or harmful impact on the Millennium Gardens.
15. Consequently the development would not result in any significant harm to the character or appearance of the area and thereby, in that respect, would not conflict with Policies E4 and H7 of the adopted North West Leicestershire Local Plan 2002 (the Local Plan) which primarily seek to ensure that development is of a good quality design that reflects the character of its surroundings.
16. I accept that there is some conflict with Policy S3 of the Local Plan in that the development lies outside the defined Limits to Development. However, the Local Plan predates the introduction of the Framework in 2012, which is a material consideration of significant weight. Given that the development constitutes sustainable development for the reasons I have set out, the development reflects the presumption in favour of sustainable development advocated in the Framework.

Other Matters

17. The site lies within the setting of the Grade II* registered Coleorton Hall Historic Park and Garden. However, given that it is a relatively small site, physically separated from the parkland by a busy road, it makes a neutral contribution to the significance of the heritage asset. As the building would be of a modest appearance and scale, and given the landscaping proposed, the development would not harm the setting or significance of the asset.

18. I have taken into account concerns that the site would become a centre for the operation of commercial vehicles. However, there is no convincing evidence before me to that effect and in any event any further change of use of the site would be a matter for the Council. There is no convincing reason why drainage by way of a septic tank would not be appropriate at the property.
19. I have considered the personal circumstances put forward in support of the application. However, as the proposal is acceptable in principle these matters are not in themselves determinative.

Conditions and Conclusion

20. The Council has suggested conditions in the event of the appeal being allowed and I have considered them in the light of advice in the Planning Practice Guidance. I have amalgamated or altered the suggested conditions where necessary for clarity.
21. In the interests of proper planning and to provide certainty, I have imposed the standard time condition and specified the approved plans. Whilst I have noted that the Council has suggested a one year time limit, I am unconvinced on the evidence before me that such a restriction is necessary or reasonable given that the development is acceptable in principle. As the plans and appeal documents specify the materials to be used in the development, it is unnecessary for the matter to be reiterated in a separate condition.
22. In order to preserve the character and appearance of the area and to encourage biodiversity, it is necessary to impose conditions requiring a landscaping scheme, including details of the living roof, and a landscape/ecological management plan to be submitted to and agreed by the local planning authority and thereafter implemented. In order to protect the habitat of nesting birds it is necessary to ensure that the removal of vegetation is restricted by condition. In the interests of the character and appearance of the area a condition requiring details of the proposed boundary treatment is also necessary.
23. In the interest of highway safety a condition requiring the provision of car parking and turning facilities within the site and surface water drainage is necessary. As a result of the coal mining history of the site a condition requiring further site investigation is necessary to ensure that the land is or can be made safe of the proposed development.
24. For the reasons set out above, and taking into account all matters raised, the appeal is allowed and planning permission is granted subject to these conditions.

S Ashworth

INSPECTOR

SCHEDULE

1. The development shall be begun before the expiration of one year from the date of this permission.
2. The proposed development shall be carried out strictly in accordance with drawing number BMashby0316.vwx (Location Plan), received by the Local Authority on the 8th April 2016, drawing numbers 01 (Proposed Elevations), 02 (Proposed Elevations) and 03 (Proposed Floor Plans) and unnumbered drawing entitled 'Proposed new design for a house at Ashby Road' received by the Local Authority on the 10th August 2016, and drawing number BMashby0316.vwx (Site/Block Plan), received by the Local Authority on the 15th September 2016, unless otherwise required by another condition of this permission.
3. Notwithstanding the details shown on the approved plans before first occupation of the dwelling, hereby permitted, a scheme of soft and hard landscaping (which shall include the soft landscaping utilised on the 'living roof' of the dwelling) shall be submitted to and agreed in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the first occupation of the dwelling with the hard landscaping scheme being provided in full prior to the first occupation of the dwelling unless alternative implementation programmes are first agreed in writing with the Local Planning Authority.
4. Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.
5. Notwithstanding the details shown on the approved plans before first occupation of the dwelling, hereby approved, a detailed scheme for the boundary treatment of the submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the dwelling hereby approved unless an alternative timescale is first agreed in writing by the Local Planning Authority.
6. Before first occupation of the development hereby permitted the following shall be provided: -
 1. The access drive and turning space shall be surfaced in accordance with details agreed under Condition 3 of this permission;
 2. The car parking and turning facilities as shown on drawing number BMashby0316.vwx (Site/Block Plan), received by the Local Authority on 15th September 2016;
 3. Drainage within the site such that surface water does not drain into the Public Highway.Once provided, the above shall thereafter be so maintained.

7. Operations that involve the destruction/removal/management of vegetation shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority.
8. The dwelling shall not be occupied until a landscape/ecological management plan for the land cross hatched on the attached drawing number LPA/16/00404/FUL, which was attached to the Officer's Report to Committee, has first been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include a timetable for implementation, management responsibilities and maintenance schedules. Once approved the landscape/ecological management plan shall be implemented in accordance with the approved details and timetable, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.
9. No development shall commence on site until a scheme of intrusive site investigation works have been submitted to and agreed in writing by the Local Planning Authority, in order to establish the exact situation regarding coal mining legacy on the site. The intrusive site investigations shall be carried out in accordance with the approved details and a report shall then be subsequently submitted to the Local Planning Authority to outline the findings of the investigations.
10. If the intrusive site investigations identify the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, details of these remedial works and a verification plan must be submitted to and agreed in writing by the Local Planning Authority. The agreed remedial works and verification must be carried out in full before any development commences in respect of any part of the development hereby approved.