
Appeal Decision

Site visit made on 22 August 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 07 September 2017

Appeal Ref: APP/K2420/W/17/3174326
65 Coventry Road, Burbage LE10 2HL

- 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 Ms J Perrin and Mr A Malin against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 16/00726/OUT, dated 5 August 2016, was refused by notice dated 8 November 2016.
 - The development proposed is demolition of no. 65 Coventry Road and erection of 13 no. dwellings and associated vehicular access.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with all matters other than access, layout and scale reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative, insofar as they relate to matters other than access, layout and scale.
3. A signed and completed S106 Unilateral Undertaking (UU) has been submitted by the appellants. This would secure contributions towards infrastructure provision and I return to this matter later.

Main Issues

4. The main issues are the effect of the development on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of the neighbouring properties with particular regard to noise and disturbance associated with the proposed vehicular access.

Reasons

Character and appearance of the area

5. The appeal site at No. 65 Coventry Road (No. 65) comprises of a detached two storey dwelling with a detached garage, outbuildings and a small enclosed field of about 0.49ha at the rear of the property. The dwelling forms part of a linear development of residential properties running along the southern side of Coventry Road, typically characterised by detached and semi-detached properties set back from the road in spacious plots.

6. The enclosed field at the rear is bounded by the garden areas and the outbuildings associated with the adjacent properties to the north and west, a public right of way and the Britannia recreation ground playing fields to the east and open countryside to the south. Where outbuildings and other structures exist behind the residential properties, these are very low, small in scale, clearly subsidiary, and have little impact upon the sense of space and openness in the area. This gives the area a strong unifying character and appearance, which is further enhanced by the presence of mature landscaping and established trees along the boundaries of the appeal site and within the surrounding gardens and the open countryside. The topography of the site slopes away gently from the existing dwelling towards the fields at the rear.
7. Policy 4 of the Hinckley and Bosworth Local Development Framework Core Strategy 2009 (CS) seeks to ensure sustainable development in Burbage including providing support to Burbage local centre and Hinckley's sub regional centre role. It makes provision for a minimum of 295 dwellings in Burbage over the plan period. In this case, although the front of the site comprising the existing dwelling and garden falls within the settlement boundary for Burbage, the field at the rear lies outside of, but immediately adjacent to the settlement boundary in the Hinckley and Bosworth Site Allocations and Development Management Policies Development Plan Document 2016 (SADMP).
8. As a consequence, the appeal site is to be regarded as being located in the countryside, wherein SADMP Policy DM4 seeks to protect the countryside's intrinsic value, beauty, open character and landscape character and limit development to that needed to support the rural economy, outdoor sports or recreation uses, re-use or extension of existing buildings and renewable energy developments. There is no indication in the evidence before me that the proposed dwellings would fall into any of the specified categories of development that would be appropriate in this location and as such, the scheme conflicts with the locational requirements of adopted planning policy.
9. The proposal would involve the demolition of the existing dwelling at no. 65 and the erection of 13 no. dwellings with associated parking and garden areas, which would be served via an access road off Coventry Road. It would comprise of 10 no. two storey houses with a ridge height of about 8.5m and three detached dormer bungalows with a ridge height of about 7.7m.
10. A core principle of the Framework is to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside. Paragraph 109 of the National Planning Policy Framework (the Framework) makes it clear that, among other things, valued landscapes should be protected and enhanced.
11. The appeal site is located within the Burbage Urban Character¹ that forms part of the hinterland to the village of Burbage where, amongst other things, the Council will seek to protect and enhance the local distinctiveness of Burbage. CS Policy 4 seeks to ensure that development contributes to Burbage's character and sense of place and sets out to enhance the landscape structure that separates the village from the M69 corridor. This approach mirrors that of the Burbage Village Design Statement which describes the land between the southern settlement boundary and the M69 as

¹ Hinckley and Bosworth Landscape Character Assessment (2006)

vital to the visual amenity. Based on the evidence before me, the site lies in an area which has no national or local designation and, while its open character is valued by local residents, I consider that it does not fall within the scope of Paragraph 109 of the Framework.

12. It is clear from the evidence provided including the appellants landscape appraisal and from my observations during my site visit that, given the screening provided by the surrounding built up development, mature landscaping around the site and the topography of the site, the proposal would only be visible from the surrounding properties and over short distances along the public rights of way and from the playing fields to the east. Therefore, in visual terms, I consider that the appeal site provides a minimal contribution to the wider surrounding area and the proposal would have limited harm on the character of the wider landscape.
13. Nonetheless, on a more local level, given the scale and two storey form of the proposed development, it would represent a shift of the built up development beyond the edge of the village. Whilst I recognise that the boundary hedgerows and trees provide some visual containment, the degree of visibility will vary according to the seasons. The appeal site together with the adjoining fields, provide a contribution to the visual quality and the openness of the area. It adds to the character and appearance of this part of Burbage and provides an important contribution to the setting of the village. This positive contribution to the character and appearance would largely be lost by the development, which would substantially urbanise the site.
14. Moreover, the siting itself, with the dwellings situated behind the existing dwellings at the front would create a backland form of development. This would introduce an uncharacteristic layout into the street scene. Paragraph 60 of the Framework states that it is proper to promote or reinforce local distinctiveness. In this case, the siting and layout of the proposed development would not amount to a subservient form of development in this backland location and would fail to promote or reinforce the distinctive characteristics of the area. Such positioning would compromise the sense of space and openness and would harm rather than positively contribute to the character and appearance of the area.
15. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed dwellings on the street scene. In any case, the site is viewed from the rear of a number of surrounding properties and the adjacent public rights of way and the playing fields. As such, irrespective of the design approach, I consider the development would result in an incongruous and out-of-keeping addition that would adversely harm the character and appearance of the area.
16. I have considered the appellants arguments that the scale and layout of the proposed development would be in keeping with the other buildings in the area and would be largely screened by the mature landscaping and new boundary treatment around the site. Whilst I recognise there is some variation in heights and housing styles in the area and the retention and enhancement of the hedgerows and boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above. I also note the appellants comments regarding the nearby housing development at Paddock Lane. However, this small development of three

dwelling has different development characteristics to the appeal scheme. It is a rare example of a backland form of development in the area and unrepresentative of the overall character and appearance of the area. I therefore accord this limited weight as a precedent in this case.

17. Consequently, I conclude that the proposal would adversely harm the character and appearance of the area. The development conflicts with SADMP Policies DM4 and DM10 which seek to protect the intrinsic value, beauty, open character and landscape character of the countryside and ensure that development complements or enhances the character of the surrounding area with regards to scale, layout, density, mass, design, materials and architectural features. In addition, it would not accord with the aims of the Framework that development should seek to secure a high quality of design (paragraph 17); to respect the local character (paragraph 58); and promote or reinforce local distinctiveness of the area (paragraph 60).

Living conditions of the occupiers of the neighbouring properties

18. The submitted plans show a long vehicular access to the appeal scheme running between Nos. 63 and 65a. The proposed access would run alongside the dwellings and their rear gardens and would be separated by a proposed sound attenuation fence of about 1.8m high running alongside the properties and for approximately 10m beyond along the common shared rear boundaries. There are window openings along the side and rear elevations of the dwellings at Nos. 63 and 65a.
19. Policy DM10 of the SADMP states that developments will be permitted provided that they would not have a significant adverse effect on the amenity of nearby residents and occupiers of adjacent buildings including matters of lighting, air quality, noise, vibration and visual intrusion. This policy is consistent with the Framework core principle of a good standard of amenity for all existing and future occupants of land and buildings.
20. Paragraph 123 of the Framework states that planning decisions should aim, amongst other things, to avoid noise from giving rise to significant adverse effects on health and quality of life as result of new development. The Planning Practice Guidance makes it clear that decision taking should consider the potential for an effect from noise and consider whether or not there would be a 'significant adverse' or 'adverse' effect that is likely to occur.
21. Whilst I accept the occupiers of Nos. 63 and 65a would be used to certain level of noise and disturbance associated with the existing vehicular access to No. 65 and the busy Coventry Road and that the boundary treatment would reduce the impact of the development to some degree, given the position of the proposed access and the separation distance between the properties, I consider the proposal would give rise to an increased level of noise and disturbance to the dwellings and the rear gardens of Nos. 63 and 65a associated with the proposed development.
22. Although, in general terms, rear gardens may contain various structures incidental to the use of the dwellings in this location, the intensity of use and activities arising from the additional dwellings are likely to be materially different. In particular, it is likely to lead to a level of comings and goings from vehicles and pedestrians that would be higher than might be expected from the existing dwelling and any incidental buildings such as the garage at No. 65.

23. Although I note the appellants statement points out that the Council's Environmental Health Officer raised no objections, I consider detailed evidence would be required to justify the proposed access arrangements to the development in this case. However, no noise surveys or any other quantitative evidence has been submitted by the appellants to justify the proposed development and the significance of potential noise and disturbance on the occupiers of the neighbouring properties.
24. I have considered the appellants statement that as Nos. 63 and 65a are in the appellants ownership, they would be in a position to secure improvements to both the dwellings and the boundary treatments to address the impacts on the living conditions of the neighbouring properties that could be dealt with by the imposition of an appropriate planning condition requiring a scheme of noise attenuation. However, whilst this maybe the case, for the reasons set out above, in the absence of a noise assessment, I do not consider that this would adequately address the potential noise disturbance and activity caused by the proposed access arrangements to the development in this case.
25. Consequently, I conclude that the proposal would result in harm to the living conditions of the occupiers of the neighbouring properties at Nos. 63 and 65a with particular regard to the noise and disturbance associated with the proposed vehicular access. It would therefore conflict with the overall amenity aims of SADMP Policy DM10 that require development, amongst other things, not to have a significant adverse effect on the amenity of nearby residents and occupiers of adjacent buildings. In addition, it would not accord with the aims of the Framework that seeks to secure a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).

Other Matters

26. A signed and completed UU has been submitted by the appellants. However, in light of my findings on the main issues above, it is not considered necessary to look at the UU in detail, given that the proposal is unacceptable for other reasons.
27. I have noted the other developments in the area drawn to my attention by the appellants. The residential developments on land at the rear of 26-28 Britannia Road² and land East of Wolvey Road, Three Pots, Burbage³ relate to a different scale and form of development that were allowed on appeal in a different policy context when the Council could not demonstrate a 5 year land supply. The residential development for up to 90 dwellings at Mickleton⁴ has different development characteristics and is in a different local planning authority area. I therefore accord them limited weight as precedents in this case.
28. I note the appellants comments that the housing figures set out in CS Policy 4 for Burbage are expressed as a minimum and that there is no limit on the consideration of housing proposals provided that they accord with the policies in the development plan. However, I do find conflict with the policies in the development plan and as such I accord this matter limited weight in making my decision.

² APP/K2420/A/10/2127585

³ APP/K2420/A/13/2202261

⁴ APP/F1610/A/14/2228762

29. I am aware that there is on-going work on a Burbage Neighbourhood Plan. However this is at a very early stage in the process and there has been no formal consultation on the draft plan that has been produced or testing of the information and conclusions. On this basis I can afford this little weight.
30. The appellants consider that the proposal would form a sustainable form of development. The appellants state that the proposal would be well connected to existing services and facilities in an accessible location and provide social and economic benefits through contributing to the supply and mix of housing in the area, the vitality of the existing services and facilities in the village, securing investment and supporting employment in the local economy.
31. However, while I note the appellants view that the scheme's design and the retention of the boundary hedgerows and enhancement by additional landscaping would amount to environmental benefits, I have found above that taken overall the development would harm the area's character and appearance and the living conditions of the occupiers of the neighbouring properties. This harm would conflict with the environmental dimension of sustainable development and, in my view, would be sufficient to outweigh the scheme's benefits when assessed against the policies in the development plan and the Framework as a whole. The proposal would not therefore amount to sustainable development in the terms of the Framework.
32. My attention was drawn by the appellants to the Court of Appeal judgment in *Barwood v East Staffordshire Borough Council and Secretary of State* Ref: [2017] EWCA Civ 893 in response to a High Court judgement⁵ advanced in the Council's case relating to the application of presumption in favour of sustainable development. However, as paragraph 14 of the Framework is not engaged in this case and the development is not judged to amount to sustainable development in the terms of the Framework that would be sufficient to outweigh the statutory presumption in favour of the development plan, it does not appear to be directly relevant to the proposal before me.
33. I have noted no objections were received from Burbage Parish Council and the support from local residents for the proposal. These include the sustainable location and benefits to the village including the supply of housing and financial infrastructure contributions, high quality design and site layout that is sympathetic to the area, proximity to services and facilities and that the proposal is supported by other similar applications in the Borough. However, these matters are addressed above and as such I accord these matters limited weight. I have also noted the objections from local residents to the proposal. However, in light of my findings on the main issues above, my decision does not turn on these matters.

Conclusion

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

David Troy

INSPECTOR

⁵ Reigate and Banstead Borough Council v Secretary of State 2017 EWHC 1562 (Admin)