



Appeal Decision

Site visit made on 15 November 2017

by Sarah Colebourne MA, MRTPI

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

Decision date: 30th November 2017

Appeal Ref: APP/X2410/W/17/3181712

Raglands, 5 Peggs Lane, Queniborough, Leicestershire, LE7 3DF

- 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 Barrett against the decision of Charnwood Borough Council.
 - The application Ref P/16/2757/2, dated 14 June 2016, was refused by notice dated 9 February 2017.
 - The development proposed is erection of detached 3 bed dwelling to side of existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposed development on the living conditions of the occupiers of the new dwelling.

Reasons

3. The development plan includes policies CS2 in the Council's Core Strategy (CS) and EV/1 in the Borough of Charnwood Local Plan (LP). These seek to ensure that proposals protect the amenity of those who will live in the new development and are compatible with the locality and any neighbouring buildings. They accord with national policy in the National Planning Policy Framework ('the Framework') which seeks to ensure that new development is appropriate for its location to prevent unacceptable risks from pollution and to avoid noise from giving rise to significant adverse impacts on health and quality of life.
4. The appeal site is located at the end of a narrow lane in the village of Queniborough. It would be sited at the end of four existing dwellings on this side of the lane, adjacent to the dwelling at no 5 and to the side and rear of an agricultural barn. Permission was granted for the retention of the general purpose agricultural pole barn in 2000. I saw that the site is currently occupied by a large shed. It also provides access to a field to the north of the site, shown on the plans as a gated hobby farm access. The dwelling at no 5, the barn and the field are also under the appellant's ownership.
5. There is an existing gated access to the barn and the appeal site from Peggs Lane. The appellant says that the part of the access closest to the appeal site

would belong to the occupiers of the new dwelling and therefore it would not be shared. However, the submitted plans show the whole of the access as outside the appeal site and do not show any division of the access. The highways authority has not been consulted on the basis of a separate access and I am therefore unable to accept this as a late amendment.

6. The plans show a gated boundary around the new property but it seems to me that the occupiers of the dwelling would have to cross the agricultural access to reach or leave their property. Although the appellant says that the access might only be used for one day of the year to provide maintenance to the field area, I cannot be certain that would always be the case as the use of the access, barn or field could intensify at any point in the future under either the existing or any future ownership. I understand that the appellant has no intention to sell but unforeseen circumstances can arise and the situation could change. A condition that required the barn to be removed prior to the site being sold would not be reasonable unless the permission was subject to a personal occupancy condition. Similarly, whilst the intended occupier would be the appellant's daughter who has only one car, the proposal does not seek a personal permission and the number of vehicles accessing the new dwelling could change in the future. The shared use of the access would, therefore, be likely to result in a significant level of noise and disturbance from large agricultural vehicles or machinery.
7. The plans show that the dwelling would be sited 11.2m from the barn. Its front windows would directly overlook the access and would overlook the barn obliquely whilst its rear windows would face the garden. The appellant says that the barn does not contain any form of pollution, noise, silage, slurry or poultry and at the moment is being used for storing agricultural machinery. Again, I cannot be certain that would always be the case as the use of the barn could intensify at any point in the future under either the existing or any future ownership. I disagree that no 5 has a similar relationship to the barn. The plans show it to be some 3m further away, set forward of the proposed dwelling with no direct overlooking of the access or oblique overlooking of the barn from the main windows of the dwelling. It seems to me that there is likely to be some noise from the use, repair or maintenance of machinery in the barn and that the potential for increased use of the barn would be likely to result in a significant degree of additional noise, disturbance or odours for the occupiers of the new dwelling.
8. I have noted that the proposal is sought to enable the appellant's family, which includes members with severe health issues and additional needs, to support each other. However, I have not been provided with sufficiently compelling details of those health conditions that would justify a permission subject to a personal occupancy condition and outweigh the harm I have identified.
9. I have noted that neither the Council or the highways authority raised any objection to the proposal in terms of highway safety but it seems to me that as the proposal is for a family sized dwelling, the safety of the future occupiers of the dwelling would be compromised by the use of the shared access and this adds to my concerns regarding noise and disturbance.

Conclusion

10. For the reasons given above, I conclude that the proposed development would result in significant harm to the living conditions of the future occupiers of the

new dwelling. It would be contrary to the Council's policies CS2 and EV/1 and the development plan as a whole and there are no material considerations that justify determining the appeal otherwise. The appeal should be dismissed.

Sarah Colebourne

Inspector