



Appeal Decision

Site visit made on 11 May 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2020

Appeal Ref: APP/K2420/W/20/3246434

Forge Bungalow, Main Street, Cadeby, Nuneaton, CV13 0AX.

- 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 K Baxter against the decision of Hinckley & Bosworth Council.
 - The application Ref. 19/00714/FUL, dated 20 June 2019, was refused by notice dated 9 January 2020.
 - The development proposed is the demolition of the existing bungalow and the erection of 2 no. dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing bungalow and the erection of 2 no. dwellings at Forge Bungalow, Main Street, Cadeby, Nuneaton, CV13 0AX, in accordance with the terms of the application, Ref 19/00714/FUL, dated 20 June 2019 and the plans submitted with it, as amended, subject to the conditions set out in the attached Schedule.

Procedural matters

2. I note that amended plans were submitted during the time that the application was with the Council and these revise the proposal from the plans originally submitted. I have had regard to these amended plans as formally considered by the Council.

Main Issues

3. The main issues are the effect of the proposed redevelopment with two dwellings on the general character and appearance of the area and whether the proposal amounts to 'overdevelopment'; and secondly the effect on the setting of the adjacent listed buildings and the character and appearance of the Cadeby Conservation Area.
4. Cadeby Parish Council and local residents also raise other objections to the development which I will consider below as 'other matters'.

Reasons

Background

5. The appeal site comprises a rectangular area of land which lies on the corner of Main Street and Church Lane in the village of Cadeby. The site contains a single storey bungalow which fronts Main Street, and there is a residential garden to the rear. Trees in the garden of the neighbouring property of Church Cottage overhang the appeal site and of these a walnut tree is the subject of a Tree

Preservation Order (TPO). It is proposed to demolish the bungalow and erect two houses both of a two storey form: the house on plot 1 would face Main Street while the house on plot 2 would face Church Lane.

Policy context

6. The development plan includes the Council's Core Strategy (CS) adopted in 2009 and the Site Allocations and Development Management Policies DPD (SADMP) adopted in July 2016. The Council accepts that the housing policies in the development plan are 'out of date' and that it cannot demonstrate a five year supply of new housing land at the moment. Therefore, the Council agrees that paragraph 11(d) of the National Planning Policy Framework (NPPF) is engaged. This advises that planning permission should be granted unless policies in the NPPF provide clear reasons for refusal, or any adverse effects in doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.
7. Notwithstanding the issue of housing strategy and supply, from my reading of the relevant policies in the development plan, there is no policy objection in principle to further residential development within the settlement of Cadeby and the determinative issues relate to local and site specific factors. Policy DM10 of the SADMP is referred to in the decision notice and this is a general policy on 'development and design' which sets out a presumption that developments will be permitted provided stated requirements are met.

Effect on character and appearance

8. In assessing this issue I have paid particular attention to the effects on the nearby listed buildings: Church Cottage (Grade II) which adjoins the appeal site; Church Farmhouse (Grade II) located to the south of the site; and the Church of All Saints (Grade II) to the south-east of the site. I have also had special regard to the general character and setting of the Cadeby Conservation Area.
9. The Council provided details of the descriptions of the listed buildings and the significance of the Conservation Area is set out in the Council's Conservation Area Appraisal (2007) (CAA). Further, the comments set out in paragraphs 8.8 to 8.47 of the officer report provides a comprehensive and detailed step by step analysis of the significance of the heritage assets and to which I have had full regard.
10. At my site visit I recognised many of the aspects of the appearance of the area and in particular the character around the intersection of Main Street and Wood Lane/ Rectory Lane where traditional houses in the main sit against the pavement edge. Moreover, the assessment of building style and scale emphasises that without exception traditional buildings are two storeys in height and set at or near 'back of pavement'.
11. The CAA also identifies factors having a negative influence on the character of the Conservation Area and this includes "the single storey dwellings on Wood Street and at the junction of Rectory Lane and Church Lane. I am satisfied that this reference includes the host bungalow on the appeal site. Moreover, I note that the appeal site is regarded as a "Weak Area" in the appraisal map that forms part of the CAA.
12. Based on the evidence submitted and my observations at my site visit, I find that the design, set-back siting, and visual presence of the host bungalow results in a prominent and alien feature in the Conservation Area. For similar reasons it also

significantly harms the setting of Church Cottage. The demolition of the bungalow would in principle be a positive enhancement of this character subject to the details of any development that replaced it. Moreover, it also appeared to me that it was not just the form and siting of the host bungalow that is visually intrusive but also there is an inappropriate conifer hedge along the side garden frontage with Church Lane and this has become overgrown and misshapen.

13. In terms of the new development proposed, the two houses are of two storey form and sited close to the roadside edge. This basic format respects the guidance in the CAA. I am satisfied that the detailed design, siting and form of the house on plot 1 would have an acceptable visual relationship and separation with Church Cottage as demonstrated in the street scene elevation. The new house is proposed to have eyebrow dormers akin to the Cottage, but I am satisfied that the overall design is sufficiently different and it would not be read as a pastiche in the street scene.
14. I noted at my site visit that the two storey property proposed would block out an existing view of part of the spire and weathervane on All Saints Church from Main Street but at the moment this view is harmed by the visual presence of the host bungalow. Moreover, the change to the views of the Church along Church Lane would be enhanced by the felling and replacement of the conifer hedge. Overall, I find that the resultant changes to local views in the heart of the Conservation Area would be enhanced overall and not harmed.
15. Turning to the house proposed on plot 2, I noted at the site visit the relatively new development to the south of the appeal site opposite All Saints Church. The form and appearance of this development is attractive and it does not jar in the street scene. The proposed house would be of a similar design and scale and the new driveway/parking proposed would ensure a reasonable visual gap to the nearest property, Three Chimneys Cottage.
16. Overall, I agree with the professional assessment undertaken in the officer report and find that the demolition of the existing bungalow and its replacement with the two detached houses as proposed would result in a positive enhancement of the character, appearance and significance of the Conservation Area. Moreover, the setting of Church Cottage and All Saints Church would be positively enhanced, while the proposal would have a neutral effect on Church Farmhouse. In reaching this conclusion I have placed great weight on the conservation of these heritage assets, as specified in paragraph 193 of the NPPF, but I find that the proposal would not cause them harm in the context of sections 66(1) or 72(i) of the Act¹.
17. In terms of policy I find that the proposal is in accordance with Policies DM11 and DM12 of the SADMP in terms of the protection of heritage assets, together with the more general design requirements of Policy DM10. Moreover, the proposal meets the guidance in section 12 of the NPPF by taking the opportunities available in improving the character and quality of the area.

Whether overdevelopment

18. From the Council's representations it is clear that the Planning Committee did not accept the officer recommendation of approval because of concerns about the proposal being an overdevelopment of the site because it was judged to have a cramped and over-crowded appearance and a loss of spaciousness at the heart of

¹ The Planning (Listed Buildings and Conservation Areas) Act 1990.

the village. However from my assessment of the development above in relation to the effect on the Conservation Area and listed buildings, this set back of the host bungalow from the frontages of Main Street and Church Lane is out of character with the otherwise tight-knit village core area and is visually weak as recognised in the CAA. In particular, I see the set back as harming the setting of Church Cottage rather than enhancing this setting and views of the property.

19. Moreover in terms of the factors set out in Policy DM10, particularly parts (c) and (d), I am satisfied that the layout, scale and density of the development proposed would complement and enhance the character of the surrounding area and that there is more than adequate space available to accommodate the redevelopment. I am also satisfied that because of the juxtaposition of the proposed and existing houses and the space between them, the residential amenity and living conditions of the occupiers of neighbouring houses would not be materially harmed by overlooking given the general context of the houses in a village environment. Part (a) of Policy DM10 is therefore met.
20. Bearing in mind the guidance in section 11 of the NPPF on making an effective use of land I conclude on this issue that the proposal would not amount to an inappropriate overdevelopment of the site.

Other matters

21. The occupiers of Church Cottage also raise objection to the position and use of the proposed parking area for plot 1 which would be sited partly to the rear of this property. However taking account of the siting of the existing bungalow and with appropriate boundary treatment, the provision and retention of which can be conditioned, it has not been demonstrated that the use of the parking area for a single dwelling would give rise to a scale of activity and noise or pollution that would materially harm the living conditions of the occupiers of Church Cottage.
22. Concern is also raised by local people about the relationship of the proposed new houses to the church hall on the opposite side of Church Lane and that the use of the hall for social activity would harm the living conditions of the nearby new houses close-by and *vice versa*, thus potentially limiting the use of the hall and the value to the community. However, it seems to me that a fairly close relationship between a community facility and the houses around it is not unusual in a village environment and other local houses are located in close proximity to the hall. There is little substantiated evidence before me to show that noise disturbance is likely to be a material problem in this case.
23. Finally, objection is put forward about the parking provision for the development and the access to the two houses off Church Lane. I note that the highway authority does not object to the proposal and there is no evidence that the access or parking would be deficient in relation to any adopted highway standards. In my view the number of spaces put forward is appropriate for dwellings of this size. Moreover, it appeared to me that Church Lane is lightly trafficked, (even taking account of the restrictions on public movement at the time of my visit,) and users of the new access points would have reasonable visibility to and from the highway. On the evidence before me I find that the proposal would not be at odds with highway safety.
24. None of the other aspects raised in representations are of such importance that they are critical to the overall planning balance.

Planning balance

25. Bringing my conclusions on the main issues together, I have found that the demolition of the existing bungalow on site would in principle be an enhancement of the appearance of the Cadeby Conservation Area. Moreover, the new houses proposed would respect and be sympathetic to the recognised character and appearance of this heritage asset and would also either enhance or have a neutral effect on the setting of the nearby listed buildings. I have also found that the scale and density of the development is appropriate to the site and the surrounding area and would not result in over-development.
26. For the reasons I have given I find that the proposal meets the requirements of the relevant policies in the development plan and in particular SADMP Policy DM10 on ensuring an appropriate form of design in this redevelopment. The proposal therefore accords with the development plan and the NPPF when these are both read a whole. No other factors outweigh this conclusion or provide clear reasons for refusing permission. Therefore, planning permission should be granted in accordance with paragraph 11(d) of the NPPF and I will allow the appeal.
27. The Council recommends that 14 conditions be imposed which I will consider under the same numbering. Moreover, the appellant is content with the 'pre-commencement' conditions suggested. Conditions 1 and 2 are necessary to regulate the timing of the implementation of the development and for clarity over the plans that are approved. Further details are needed to ensure that the materials and height of the houses are appropriate to the appearance of the area and I will impose conditions 3 and 7. Likewise, to ensure that the development enhances the appearance of the area I will impose condition 8 on the need for a landscaping scheme together with the tree protection measures as per condition 9 in the interests of amenity. Conditions 5 and 6 are reasonable and necessary in the interests of highway safety.
28. In order to ensure that the adjoining property Three Chimneys Cottage is not overlooked I will impose condition 4 to regulate the glazing in and the opening of the side facing window proposed. A specific condition on requiring a construction method statement for house 1 is reasonable and necessary in view of the close proximity of this new house to the adjoining listed building of Church Cottage and I will impose condition 10. Further, as there may be aspects of archaeological interest on site I will impose condition no. 11 amended accordingly. Condition 12 is needed to ensure that appropriate drainage is installed for the development to avoid flooding and pollution. Finally, because of the sensitivity of the site in an area of heritage assets, conditions 13 and 14 withdrawing specific 'permitted development rights' are justified and necessary.

Conclusion

29. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall not be carried out otherwise than in accordance with the submitted application details, as follows:
 - Location Plan, Dwg. no 06 received by the Local Planning authority on 26 June 2019;
 - Proposed Site layout, Dwg no 01J received by the Local Planning Authority on 17 October 2019;
 - Plot 1, Elevations and Floor Plans, Dwg no 03G
 - Plot 2, Elevations and Floor Plans, Dwg no 04F
 - Both received by The Local Planning Authority on 12 August 2019
 - Street Scene, Dwg. no 07B received by the Local Planning Authority on 11 November 2019;
 - Pre-Development Tree Survey - BS5837:2012 V3 - Received by the Local Planning Authority on 18 November 2019
- 3) No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings (including the facing brick, roof tiles, timber windows and doors and rainwater goods) hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.
- 4) The window within the south elevation of Dwelling 2 at first floor level serving a bathroom shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and be non-openable. Once so provided the window(s) shall be permanently maintained as such at all times thereafter.
- 5) No part of the development hereby permitted shall be occupied until such time as the access, parking and turning arrangements shown on Hayward Architects drawing number 01J (received by the Local Planning Authority on 17 October 2019) have been implemented in full. Visibility splays once provided shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 6) The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.
- 7) No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.
- 8) Prior to the commencement of the development a scheme of hard and soft landscaping works, including boundary treatments for all boundaries of the site including with Church Cottage, and an implementation scheme, shall be submitted to and approved by the local planning authority. The scheme shall include a native hedgerow species planted along the eastern boundary to plot 1 (e.g. hawthorn, blackthorn, etc.). The soft landscaping scheme shall be maintained for a period of

five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority. Fences and walls that are part of the scheme shall be retained thereafter.

- 9) Before any development commences on the site, including site works of any description, the Tree Protection Plan V3 received by the Local Planning Authority on 18 November 2019 shall be implemented in accordance with British Standard 5837:2012 (Trees in relation to design). The protection measures shall include protective barriers to form a secure construction exclusion zone and root protection area for the Walnut tree as indicated on the Haywards Drawing no 01J received by the Local Planning Authority on 17 October 2019. Any trenches for services that are required within the fenced-off areas, shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left unsevered. The development shall be implemented in accordance with the approved Tree Protection Plan.
- 10) No works or development shall take place within the site until a construction method statement detailing how the excavations for foundations (all or part) for plot 1 has been submitted to and approved in writing by the Local Planning Authority. The statement should demonstrate that the method of excavation will ensure no damage will occur to the adjacent listed building Church Cottage. The development shall then be implemented in accordance with the approved scheme.
- 11) No demolition/development shall take place/commence until a written scheme of archaeological investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and;
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.
- 12) No development shall commence until drainage details for the disposal of surface water and foul sewage have been submitted in writing to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the development is first brought into use.
- 13) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B,C, D, E, F and G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no enlargement, improvement or other alteration to the two dwellings shall be erected or carried out without the granting of planning permission by the Local Planning Authority.
- 14) Notwithstanding the provisions of Article 3, Schedule 2, Part 2 Classes A and C of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no minor operations (comprising the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure; and the painting of the exterior of any building) to the two dwellings shall be erected or

carried out without the granting of planning permission by the Local Planning Authority.