



Appeal Decision

Site visit made on 27 May 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2020

Appeal Ref: APP/K2420/W/20/3244630

2A Drayton Lane, Fenny Drayton, Nuneaton CV13 6AZ

- 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 Cookes against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 19/00934/OUT, dated 19 August 2019, was refused by notice dated 7 October 2019.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of one dwelling at 2A Drayton Lane, Fenny Drayton, Nuneaton CV13 6AZ in accordance with the terms of the application, Ref 19/0934/OUT, dated 19 August 2019, and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

Procedural Matters

2. The application was submitted in outline, with only layout to be determined at this stage. Access, appearance, landscaping and scale are reserved matters. I have consequently treated the submitted drawings as being for illustrative purposes only, insofar as they imply matters other than layout. However, the Design and Access Statement accompanying the planning application and subsequent appeal material submitted by the appellant clearly indicate that the proposed dwelling is intended to be a bungalow, and I have dealt with the appeal on that basis.

Main Issues

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site lies within Fenny Drayton, a small hamlet which is characterised by a wide mix of property types and ages reflecting the settlement's organic growth. The site is accessed from Drayton Lane by a shared driveway which serves Nos 2, 2A and 2B Drayton Lane. These existing dwellings vary in style, although again this variety is not uncharacteristic of the village. They form a small group within the larger block bounded by Drayton Lane and other residential properties on Church Lane and Old Forge Road. The

Council has indicated that it considers infill housing development within the settlement boundary of Fenny Drayton acceptable in principle.

5. The appeal site itself is a relatively long and thin plot which has been physically separated from the garden of the bungalow at No 2A Drayton Lane by a panel fence, although at the time of my site visit it contained a static caravan and a shed-type outbuilding which are ancillary to the host property. The site is grassed and has extensive tree planting along its eastern and northern boundaries, as well as other mature vegetation.
6. The proposal is to erect a new single-storey dwelling, accessed from the shared driveway. It would be sited towards the site's rear boundary and so would have a relatively short rear garden and a much longer front garden, which would also include two parking spaces next to the drive. From the evidence before me and what I observed on my site visit this arrangement is not uncommon in the surrounding area. For example, the existing bungalow at 2A Drayton Lane and the adjacent houses at 22, 24 and 30 Old Forge Road all have rear gardens which are smaller and shallower than those at their front. In that sense, the proposed layout would not be unusual in its surroundings, and would allow for greater practical use of the proposed dwelling's front garden, as given the site's alignment it would be likely to receive more sunlight than the rear space.
7. The appeal site has an approximate area, excluding the shared driveway, of slightly over 800 m². While this is smaller than the adjacent plots within the group of Nos 2, 2A and 2B Drayton Lane, it is reasonably close in size to that of No 2B, which I understand to have an area of approximately 880m², and it is not small in absolute terms. The submitted layout plan shows a modest footprint for the proposed dwelling, and although appearance and scale are reserved matters I consider that a bungalow as described need not appear cramped on the site. Furthermore, the host property No 2A would retain a plot of around 2,400m², and the proposed new dwelling would be set to one side of the front elevation of the existing bungalow. As a result, the proposal would not lead to No 2A appearing cramped within its plot.
8. The appellant has also provided approximate measurements for several of the residential plots nearby on Drayton Lane and Church Lane, which range from around 90m² to just short of 590m². I have no reason to dispute these figures and, while they represent a selective example rather than a comprehensive study, they do serve to illustrate that the appeal site is not unusually small within the context of the surrounding area. I therefore consider that the proposal would not be either incongruous or of excessively intensive density in the context of its wider surroundings.
9. Although the proposed dwelling would be likely to be visible from the site access on Drayton Lane, it would be set well back from the road and would only be seen in a narrow view between Nos 2 and 2B Drayton Lane and 30 Old Forge Road. It would also in part be framed and screened by the mature trees and other vegetation on site. Given this, the proposed dwelling would have a very limited visual impact on the wider area.
10. Both parties have drawn my attention to an earlier appeal decision on the site¹. While I do not know the full circumstances of the earlier case, it related to a proposal for two dwellings rather than one, with a larger 'red line' boundary

¹ Reference APP/K2420/W/15/3133397

than the proposal now before me. Its layout plan shows a much greater developed footprint, located closer both to the host dwelling at No 2A and to Drayton Lane itself. I note also that the development plan has changed since that decision was made, through the adoption in July 2016 of the Hinckley & Bosworth Site Allocations and Development Management Policies DPD (the DMDPD). I have had regard to that decision, and the Inspector's observations in respect of the layout and access arrangements of recent infill development in the village. However, the proposal now before me is markedly different from the earlier scheme in terms of its layout and development density. Its effects on the host property and the character and appearance of the area would be very different from the harmful impacts which the previous Inspector identified.

11. Taking these points together, I consider that the proposed dwelling would not be harmful to the character and appearance of the surrounding area. The proposal complies with Policy DM10 of the DMDPD, which among other things seeks to ensure that development proposals complement the character of the surrounding area with regard to layout and density. For the same reasons it would comply with the requirements of Paragraph 127 of the 2019 National Planning Policy Framework (the Framework) in this regard.

Other Matters

12. I have had regard to concerns raised by neighbours about overlooking and trees on the site. Issues relating to the scale and design of the proposed dwelling will be dealt with in detail as part of a reserved matters application. However, the proposed dwelling would be sited an adequate distance away from the habitable room windows of neighbouring dwellings. In respect of trees, the submitted drawings indicate that some existing trees would be removed. While landscaping is a reserved matter, further tree planting could occur already without the need for planning permission. The Council did not find that the proposal would have an adverse impact on the residential amenity of neighbouring properties, and none of the information before me leads me to a different view, subject to the imposition of a condition in respect of site and floor levels to protect the living conditions of neighbouring residents.
13. The Council considered that the proposed dwelling would have acceptable highway access, and while both main parties referred to measures under the planning permission for the construction of No 2B Drayton Lane² which have not yet been put in place I find no reason to disagree with their conclusion. Any details of access arrangements requiring further resolution can be addressed at the reserved matters stage. I have been made aware of a dispute between the appellant and a third party in respect of access rights, but this is a private legal matter which does not fall within the scope of this decision. None of the other matters raised alter my overall conclusion below.

Planning Balance

14. There is no dispute between the main parties that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites, and the 'tilted balance' described in Paragraph 11(d) of the Framework is therefore engaged. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

² Hinckley & Bosworth reference 15/00087/FUL

15. The proposed development would contribute to the supply of housing and there would be economic benefits arising in the short term from the construction of the dwelling, although the provision of a single additional dwelling means that both of these benefits would be limited. In the longer term, the future occupiers would use and support shops, businesses and other services, although these are limited within Fenny Drayton itself and the modest economic benefits arising from the existence of one additional dwelling would be spread over the wider area. Nonetheless, while the total benefits arising from the development would be small, I have not found that the development would have adverse impacts when assessed against the policies in the Framework taken as a whole. The requirements of Paragraph 11 of the Framework therefore indicate that planning permission should be granted.
16. Furthermore, as I have found that as the proposal would be acceptable in its effects on the character and appearance of the area, I have concluded that there is no conflict with the development plan. This adds weight to my overall conclusion that the appeal should be allowed.

Conditions

17. I have considered the conditions suggested by the Council having regard to the tests in the Framework and the advice in the Planning Practice Guidance. Where necessary I have altered the proposed wording in the interests of clarity and effectiveness. In addition to the definition of the Reserved Matters, standard time limit conditions for the submission of Reserved Matters and the commencement of development (1, 2, 3), I have imposed a condition stipulating the approved plans so as to provide certainty and to ensure a satisfactory development (4).
18. A condition relating to site and floor levels is necessary to ensure that the living conditions of neighbouring residents and the character and appearance of the area are protected, a requirement which can be dealt with at the same time as the reserved matters (5). A condition relating to approval of materials is also necessary to protect the character and appearance of the area (6).
19. I am mindful of the advice in paragraph 53 of the Framework that 'planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so'. In order to protect neighbours' living conditions and the character and appearance of the area, restrictions are necessary to prevent extensions, roof alterations and other development including porches and ancillary buildings which could otherwise be carried out without planning permission. Restrictions of these specific permitted development rights are clearly justified by the site and the circumstances of the case, and I have therefore imposed a condition accordingly (7).

Conclusion

20. For the reasons given above the appeal is allowed.

M Cryan

Inspector

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Reference 1054/01), Proposed Site Plans (Drawing Nos 1984 – P 01 and 1984 – P 02).
- 5) The reserved matters application shall be accompanied by details of existing and proposed site levels and finished floor levels of the proposed dwelling, to be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 6) No development above slab level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), no development of the types described in the following Classes of Schedule 2 Part 1 shall be undertaken without the express consent in writing of the local planning authority other than those expressly authorised by this permission: Part 1, Class A, B, C, D, E.

--End of schedule of conditions--