



Appeal Decision

Site visit made on 22 July 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2020

Appeal Ref: APP/T2405/W/20/3250365

170 Leicester Road, Glen Parva LE2 9HH

- 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 Mr H Singh against the decision of Blaby District Council.
 - The application Ref 19/1295/OUT, dated 24 September 2019, was refused by notice dated 20 December 2019.
 - The development proposed is described as an outline application for the erection of 3 no. four bed dwellings and 1 no. three bed dormer bungalow in the rear garden (all matters to be considered except appearance).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr H Singh against Blaby District Council. This application is the subject of a separate decision.

Main Issues

3. There are three main issues. These are the effect of the proposed development on a) the character and appearance of the area; b) the living conditions of existing neighbouring occupiers; and c) ecology and biodiversity.

Reasons

Character and Appearance

4. The appeal site is the rear garden of No 170 Leicester Road. It is overgrown and has a number of mature trees. A two storey detached dwelling is sat to the front of what is an elongated narrow rectangular plot stretching back a significant distance west where it abuts the rear gardens of dwellings fronting Greendale Road. Detached and semi detached dwellings characterise the street scene to the eastern end of each plot. Front gardens are sufficiently deep to accommodate off street parking. For the most part, the area is dominated by single tier frontage development with long narrow rear gardens that are, save for some outbuildings, largely open and undeveloped.
5. The proposed development would site four detached dwellings one behind one another in a line astern layout, stretching westwards at regular intervals from the rear of No 170. All but one would be two storeys. An access road would run from Leicester Road, to the north of No 170, along the boundary with No

172. Parking for each unit would be directly off the access road with turning heads incorporated.
6. The appeal scheme would introduce multiple tiers of development in backland form which would be wholly against the established and characteristic grain of the area. I shall go into more detail on this later, but I am aware of some examples of backland development behind Leicester Road properties. They do however appear to be some distance from the appeal site and as such read as being distinctly separate from it. In addition, the number of new buildings, their scale and extent of new hardstanding for the access road and turning areas would also erode the open and undeveloped feel of the rear gardens to Leicester Road dwellings. Furthermore, the gardens afforded to the new dwellings would be uncharacteristically small when compared to the existing situation.
 7. I have alluded to the fact that some of the Leicester Road dwellings have outbuildings in their rear gardens which are by definition behind the frontage dwelling. Some are substantial and quite far back. They do therefore add some depth to built form in terms of the character of the area. These are however ancillary to their host building which, in terms of how they form the character of the area, are fundamentally different to a new dwelling(s) which would have its own access, curtilage and parking.
 8. For the above reasons, the proposed development would cause harm to the character and appearance of the area. Such that it would conflict with Policy CS2 of the Core Strategy¹ and Policy DM1 of the Local Plan². Along with section 12 of the Framework³, these policies seek to ensure, amongst other things, that new development is of a high quality and contextually appropriate design and appearance. They also seek to improve the design quality of all new developments.

Living Conditions

9. Whilst the three plots that would be located furthest west would be sufficiently far away from neighbouring dwellings and gardens to not have an adverse effect on their occupiers' living conditions, the location of plot 1, closest to No 170, gives me cause for concern. Whilst its external appearance (and thus placement of windows) would be considered later, I am struggling to see how it could be orientated and laid out internally so windows would not cause unacceptable overlooking to neighbouring gardens which it would be in close proximity to. Given the width of the garden to No 170, and need for an access to the remainder of the development, there would likely have to be clear windows on an elevation that would have a direct and unimpeded close view of neighbouring gardens, including that belonging to No 170. Such a view is likely to be of the immediate rear of each dwelling, the area where occupiers would expect a higher degree of privacy for the enjoyment of their garden.
10. The proposed access road would, as I have explained, abut the boundary of No 172 Leicester Road. It would pass the side elevation of No 172 and then the entire length of its rear garden. It would also run equally close to the side elevation of No 170 and be facilitated by the demolition of part of the existing

¹ Blaby District Core Strategy Development Plan Document 2013

² Blaby District Local Plan Delivery Development Plan Document 2019

³ The National Planning Policy Framework 2019

dwelling. It would be an access to four reasonably sized and independently occupied dwellings. Comings and goings from the dwellings might not be significant in the grand scheme but they would be enough, in my view, to lead to an unacceptable increase in noise disturbance for occupiers of both dwellings. Such disturbance would include that from engines, closing doors and headlights during darker times of the day and year. A well designed boundary treatment between Nos 170 and 172 would go some way to alleviating some of these problems but given the available space I can't see that it would be sufficient to overcome them to my satisfaction. Particularly since such a measure would not be able to alter how noise disturbance would be experienced by occupiers of No 170.

11. The proposed development would therefore harm the living conditions of existing occupiers. This would be contrary to the aims of Policy DM1 of the Local Plan. Along with paragraph 127 of the Framework, this policy seeks to ensure, amongst other things, that the quality of new development is improved and create places that have a high standard of amenity for existing and future users.

Ecology and Biodiversity

12. As I have explained in my comments on the first main issue, the appeal site is overgrown, and extensively so, to the point that some of the western end is currently inaccessible. This indicates to me that it has been left unmanaged for some considerable time. Some trees and ground cover has been recently cleared but much of the garden space, including those areas proposed for development, have clearly yet to be touched.
13. The extent of overgrowth, the maturity of remaining trees and the length of time it appears to have been left to its own devices, gives me cause to conclude that there is a greater possibility it may be used as habitat. I note the comments that have been made by the Council's ecological advisor in that some habitat could be suitable for roosting bats and nesting birds. There is therefore a possibility protected species could be affected and erring on the side of caution in this respect, I would be uncomfortable finding no harm in regard to this main issue with variables unknown.
14. I am unsure based on what I have seen in the evidence if a survey of the appeal site has been undertaken. One would shed some light on the situation. The appellant, in their final comments, does allude to one being either pending or concluded with a report due but I have not seen a copy. I have seen an email from a Council advisor stating they have nothing further to add but there is no indication as to what this is in response to specifically.
15. I therefore agree with the Council on their course of action with regard to this main issue in that, without the necessary survey information before a decision maker as well as any mitigation that may be required, the appeal scheme has the potential, taking into account my earlier findings, to detrimentally affect the ecology and biodiversity of the appeal site. This would be contrary to the objectives of Policy CS19 of the Core Strategy which sets out, amongst other things, protection for the important areas of the District's natural environment (species and habitats) and to improve biodiversity. It also explains that a development proposal should ensure that species requiring conservation action, including those species which do not receive statutory protection under a range of legislative provisions, are protected from the adverse effects of development

through appropriate mitigation measures. There would also be some conflict with Policy CS2 of the Core Strategy which sets out, amongst other things, that the design of new development should take account of opportunities to promote biodiversity and enhance the natural environment, including wildlife habitats.

Other Matters

16. I am aware that there are areas in which the appeal scheme would be acceptable and as a result it would, in respect of those specific areas, comply with relevant policies of the development plan. In each case however, these would be a lack of harm which, by definition, cannot be used to weigh against it. These matters would not therefore lead me to allowing the appeal.
17. The appellant has queried the Council's delivery of housing sites and whether they are meeting requirements. They specifically identify what seems to be a large strategic site which the Council appears to rely on for a substantial proportion of their supply. The Council set out in their evidence that they can demonstrate the supply of sites required by the Framework. There is no detailed substantive evidence to make me to doubt what the Council declare.
18. That said, even if I were to consider the appeal scheme in an undersupply situation and engage the so called tilted balance⁴ of paragraph 11 of the Framework, I would find multiple harms arising from the appeal scheme in terms of the main issues of this appeal to which I would ascribe substantial weight. These harms would conflict with the development plan despite any weight I may reduce to the policies thereof. The benefits of the proposed development would be addition of new housing which would be helpful socially and economically, particularly in light of the apparent economic impacts of the recent global pandemic. Benefits would however be mostly time limited and modest in their scale. The contribution to any undersupply (if one existed) would be small in the grand scheme. The benefits would accordingly carry limited weight. Such that I would conclude that the adverse impacts of granting a planning permission would significantly and demonstrably outweigh them.
19. As well as the examples of backland development to which I have been referred in the evidence and taken account of above, the appellant has drawn my attention to a number of other schemes that have the benefit of planning permission. Application numbers and the addresses have been supplied for most, but I have limited details of their layout, site or locality to which they relate. Further, I was not party to the circumstances of each planning permission cited. I have seen a layout plan for land to the rear of No 57 Leicester Road but the four dwellings in that case would be sited line abreast and alongside a similar layout at Hillsborough Crescent. In the case of the completed scheme on land to the rear of No 116, development is in an area of much higher density to the appeal site. The dwellings are accordingly read as part of a more informal cluster.
20. I cannot therefore be satisfied, based on what I have seen, that the examples that have been cited are sufficiently similar to the appeal site to change the

⁴granting a planning permission 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.

conclusions I have drawn. Each development proposal is considered on its own merits and with regard to its own context. Which is often individual to it.

Conclusion

21. For the reasons set out above, the appeal is dismissed.

John Morrison

INSPECTOR