



Appeal Decision

Site visit made on 7 October 2020

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 11th November 2020

Appeal Ref: APP/K2420/W/20/3250575
159 Coventry Road, Burbage LE10 2HW

- 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 S Hill against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 19/01438/OUT, dated 20 December 2019, was refused by notice dated 26 February 2020.
 - The development proposed is the erection of a detached dwelling with vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline planning permission, with all matters reserved except access, layout and scale. I have considered the appeal on this basis and have treated any plans in relation to the reserved matters as illustrative.
3. The appellant has requested that I accept drawing number 4641/01 (Revision B) of 1 April 2020 in my determination of the appeal. The drawing amends the labelling of the two elevations shown on the plan on which the Council's decision was taken.
4. In considering whether to accept the amended drawing I have had regard to the "Wheatcroft Principles". Whilst the amended drawing corrects errors in the initial labelling, the development proposed has not changed. The access, layout and scale of the dwelling are consequently unaltered, and are evident from both sets of plans. The alterations are therefore not substantial, and the development is not so changed that to accept the revised drawing would deprive those who should have been consulted of the opportunity of such consultation. Accordingly, I have formally considered drawing number 4641/01 (Revision B) in my determination of the appeal.

Main Issues

5. The main issues are the effect of the proposed development on:
 - The character and appearance of the area; and
 - The living conditions of the occupiers of 161 Coventry Road with particular regard to outlook.

Reasons

Character and appearance

6. The host dwelling lies within a row of properties which are partially characterised by linear rear gardens of a substantial size. Dwellings in the vicinity of the appeal site generally have a road frontage and a reasonable plot scale. These factors provide an open backdrop to dwellings within the row.
7. The appeal site comprises rear garden land to the host dwelling. The site is currently lawned and contains a summerhouse of a single storey scale, trees, shrubs and other garden vegetation. These form a characteristic open backdrop to the host dwelling.
8. The proposal would introduce substantial two-storey built form within the series of gardens. This would cause harm to their open appearance. The layout and scale of the scheme would additionally result in a density of development which would appear cramped in the context of an area characterised by reasonably sized plots. The overall harm would be moderate due to the incongruous appearance of a substantial dwelling within the row of gardens which lack similar development.
9. I accept that views of the dwelling from Coventry Road would be limited due to the presence of intervening vegetation and built form. However, it would be visible from surrounding properties. The incongruous appearance of the dwelling would therefore be apparent within the surrounding residential area, where I saw minimal evidence of similar development.
10. The appellant contends that the proposal complies with guidance within the Council's Good Design Guide Supplementary Planning Document (2019) (the SPD) with regard to "backland" development. However, the SPD states that such development should not result in over-densification leading to loss of character. I have identified that the density of the scheme would conflict with the area's prevailing pattern of development. Thus, I do not concur with the submission that the proposal demonstrates compliance with the SPD.
11. The proposed development would consequently cause moderate harm to the character and appearance of the area. As a result, it conflicts with Policy DM1 of the Site Allocations and Development Management Development Plan Document (2016) (the DPD), which sets out a presumption in favour of sustainable development. Further conflict arises with Policy DM10 of the DPD, which states that development will be permitted where it complements or enhances the character of the surrounding area with regard to scale and density.

Living conditions

12. No 161 Coventry Road (No 161) lies adjacent to the appeal site, and has a similar linear rear garden. A number of trees lie along its garden boundaries and the two-storey built form of the side elevation of a property on Lysander Close lies at the end of its garden.
13. The proposed dwelling would lie close to the boundary with No 161 and, irrespective of the finished height, its two-storey built form would extend for approximately 12 metres along the boundary. The appeal scheme would consequently replace views over the host dwelling's garden with a significant

projection of built form which would form an unduly overbearing frame to the outlook from the garden at No 161. An enclosing effect would be significantly apparent given that two-storey built form would lie at the side and end of the garden to No 161.

14. Accordingly, the proposal would cause significant harm to the living conditions of the occupiers of 161 Coventry Road with regard to outlook. Thus, it conflicts with Policy DM10 of the DPD, which states that development should not have a significant adverse effect on the amenity of the occupiers of adjacent buildings with regard to visual intrusion.

Other Matters

15. My attention has been drawn to a number of schemes in the vicinity of the appeal site. Schemes to the rear of 8 Crossways¹ and 54 Coventry Road² lay in areas with a more varied pattern of development. An appeal decision³ concerning 42 Coventry Road found that there were buildings directly adjacent to the site of the proposed dwelling.
16. Whilst these decisions identified some “backland” development in the area concerned, this lies some distance from the appeal site. These and other developments referred to are consequently located at too great a distance to comprise the surrounding area of the appeal site for the purposes of my determination of this appeal.
17. Furthermore, as the appeal proposes the construction of a dwelling in an area with a consistent pattern of development in a location with no directly adjacent dwellings there are considerable material differences between the proposal and the other schemes. Accordingly, I attach limited weight to their relevance in determining the appeal.
18. It has been put to me that the imposition of a condition to restrict the dwelling’s height could render its effect on the living conditions main issue acceptable. However, I have identified that built form of the extent proposed in the application would have an unacceptable effect. I am mindful of advice within the Planning Practice Guidance on the use of conditions, which sets out that it is not appropriate to impose a condition which would modify the development in a way that makes it substantially different from that set out in the application. The suggested condition would result in a development which would be substantially different in scale to that set out in the application, and hence it would not be appropriate to impose it. Thus, the suggestion is not capable of rendering the proposal acceptable.
19. I have had regard to other matters raised, including concerns about the proposal’s effect on the living conditions of nearby occupiers and on parking provision. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Planning Balance and Conclusion

20. The parties concur that the Council is unable to demonstrate a 5 year housing land supply. In such circumstances, paragraph 11 of the National Planning

¹ 19/00619/OUT

² APP/K2420/A/05/1177704

³ APP/K2420/W/18/3201693

Policy Framework (2019) (the Framework) sets out that it is necessary to grant permission unless, amongst other things, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole.

21. There would be a social benefit from the provision of the additional dwelling in a location with access to services and facilities. Economic benefits would arise from the construction work and from the occupation of the new house. These matters would form modest benefits as a result of the limited scale of the development.
22. Against this, the proposal would cause moderate harm to the character and appearance of the area, and significant harm to the living conditions of neighbouring occupiers. As a result of this, the environmental aspect of sustainable development would not be achieved.
23. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Therefore the proposal would not be a sustainable form of development when considered against the Framework taken as a whole. The conflict with the development plan is not outweighed by other considerations, including the Framework.
24. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR