



Appeal Decision

Site visit made on 17 November 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2020

Appeal Ref: APP/T2405/W/20/3254968

Land adjacent to 2 Strawberry Gardens, Enderby LE19 4PQ

- 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 Bredales (Midlands) Limited against the decision of Blaby District Council.
 - The application Ref 20/0314/FUL, dated 5 March 2020, was refused by notice dated 5 June 2020.
 - The development proposed is erection of a new dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a new dwelling, at Land adjacent to 2 Strawberry Gardens, Enderby LE19 4PQ, in accordance with the terms of the application Ref 20/0314/FUL, dated 5 March 2020, and subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues are i) whether the proposal represents a suitable location for housing in terms of accessibility and ii) the effect on the landscape character and appearance of the area.

Reasons

Location for housing

3. The Blaby District Local Plan forms the development plan for the district and comprises the Core Strategy Development Plan Document (February 2013) (the CS) and the Delivery Development Plan Document (February 2019) (the DDPD). Policy CS1 of the CS sets out the strategic objectives for the location of new development. Most new development will take place within and adjoining the principle urban area of Leicester. Outside this, development will be focused within and adjoining Blaby and 'Larger Central villages' which includes Enderby. These are villages which contain a good range of services and facilities, access to a range of transport modes and which have a good functional relationship with higher order centres.
4. The Council indicates that the appeal site lies outside of the development limits of Enderby and is thus within the countryside for planning purposes. Policy CS18 addresses development in the countryside, and seeks to protect the important areas of the District's natural environment, landscape and geology. It adds that the need to retain countryside will be balanced against the need to provide new development (including housing) in the most sustainable locations.

5. The appeal site is located to the edge of the village along a short, private track leading from Seine Lane. Six dwellings already populate the lane, four closer to the junction with Seine Lane, and two at the end of the track. It is within the garden of one of these, No 2, that the proposed dwelling would be built. A further dwelling, Denbigh Bungalow, with extensive outbuildings stands directly opposite the appeal site, though it is accessed from Seine Lane. The four dwellings, Nos 3-6, are relatively recently constructed, having been granted permission between 2004 and 2014, replacing two former dwellings.
6. The Council contends that the location of the proposed dwelling is unsuitable due to it being located on an unlit private road and although the centre of Enderby is within 800 metres of the site, the first 450 metres are along a route with no footpath and only a single street light. As a consequence, the Council takes the view that occupants would rely heavily on the private car for most journeys. The Council also refers to a 2013 appeal decision¹ where an Inspector considered pedestrian routes from a site to the south of Seine Lane.
7. The appeal site is some 150 metres beyond the development limit of Enderby, and is surrounded by other built development. As such, the proposal would not amount to an isolated home in the countryside, and none of the exceptions at Paragraph 79 of the National Planning Policy Framework (the Framework) are required to be met.
8. In terms of accessibility, the distance to facilities in Enderby is within a reasonable walking distance. I walked along Seine Lane to its junction with Conery Lane where the footpath begins. This is a relatively short stretch which is navigable during the day by those comfortable walking country roads, though I accept that at night or in inclement weather people would be less inclined to walk. However, such disinclinations are common even when footpaths and street lighting exist, and occupants would be no more or less likely to walk than occupants of the existing dwellings on Strawberry Gardens.
9. However, there is a large estate layout of housing immediately on the opposite side of Seine Lane accessible via an alley. This would provide an alternative, if slightly less direct, route to the village centre along lit footpaths. An unlit pedestrian route also extends to the south along a disused railway line which offers a further option for residents in daytime hours. The route along Seine Lane is also suitable for use by those on bicycle. Therefore, I find there would be potential for future occupants to travel by means other than the private car.
10. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Whilst the proposal would generate additional journeys by private car, they would be limited in number given the scale of development is limited to a single dwelling, and the potential to access services and facilities in Enderby on foot or cycle.
11. In reaching a view, I have had regard to the appeal decision from 2013 for a large scheme of 244 dwellings. The Inspector found the detail before him insufficient to determine that Seine Lane was suitable for pedestrians. I do not have the full details of the case, but it is clear that the scale of the development was significantly greater than that now before me, with very different considerations as to the number of trips by car or on foot which would

¹ Appeal Ref APP/T2405/A/13/2200867

be generated. As such, I do not regard this decision as determinative of the appeal before me, which I have considered on its own merits.

12. For these reasons, I find that the proposal would be suitably located to access local services and facilities by sustainable modes of transport, and no conflict would arise with the aforementioned aims of Policy CS18. The proposal would further accord with the aims of the Framework to locate housing where it will enhance or maintain the vitality of rural communities.

Landscape character and appearance

13. Policy CS18 states that within areas designated as countryside, planning permission will not be granted for built development which would have a significantly adverse effect on the appearance or character of the landscape. Policy DM2 of the DDPD expands on Policy CS18, stating that development will be supported where it is in keeping with the appearance and character of the existing landscape, development form and buildings; where it provides a satisfactory relationship with nearby uses and does not undermine the vitality and viability of existing town, district and local centres.
14. The Council refers to the site's location within the 'Thurlaston Rolling Farmland' as defined by the Blaby Landscape and Settlement Character Assessment (January 2020) (the LCSA). The LCSA identifies a key force for change being urban pressures along the fringes of settlements which could reduce the distinction between urban and rural areas, and states that development should avoid the more open visible slopes and should be sensitively sited.
15. The boundary of the built form of Enderby is given by the Council as being the disused railway line. I saw that the area around the appeal site is at a transition point between the built-up area and the countryside, with an open field to the rear of the site, a small paddock area between Seine Lane and Strawberry Gardens and open fields to the south of Seine Lane. However, when stood at the site, or at the entrance to the private lane, expansive views of the countryside are limited by trees and hedgerows lining the road. Moreover, development further along Seine Lane, notably Denbigh Bungalow and the large garden centre complex, are visible and contribute to a sense of the surroundings still forming part of the village in a semi-rural manner rather than being wholly open, undeveloped countryside.
16. Visually, the dwellings on Strawberry Gardens are well enclosed by trees and do not stand out in the wider landscape as anomalous features, particularly given the visible development beyond. However, they are visible from Seine Lane, particularly Nos 5 and 6, and residential development is now an established feature along the private lane. The proposed dwelling would be set well in from Seine Lane and would form an infill development between No 3 and Denbigh Bungalow. A line of tall, mature conifers on the front boundary would be removed as part of the development, but other hedgerows and trees would remain which would help to embed the dwelling into its surroundings and reduce its visibility. In this respect, the proposal would align with the guidance of the LCSA on siting of development.
17. The Council acknowledges that the dwellings along Strawberry Gardens vary in scale and design. The proposed dwelling would be two storeys and would stand further back into its plot than Nos 3-6. It would be taller than the dormer bungalow at No 3, but would be similar in height to Nos 5 and 6, and would be

positioned a sufficient distance from No 3 so as to maintain the generous spacing of development along the lane. The use of red brick would be consistent with neighbouring dwellings and appropriate to the semi-rural surroundings.

18. A detached garage would stand to the front of the site. This is not a feature of neighbouring properties, although a car port to Denbigh Bungalow stands adjacent to the private lane, and detached outbuildings are visible at the end of the track where it turns towards Nos 1 and 2. The garage would continue the design palette of the main house, and it would appear as an ancillary structure due to its lower height and massing. It would not appear conspicuous from Seine Lane given the filtering of views through intervening hedgerows, nor would it harmfully disrupt the street scene on Strawberry Gardens given the variety of built form which already exists.
19. Overall, the proposed dwelling would appear as a continuation of established development along Strawberry Gardens and would not demonstrably reduce the distinction between urban and rural areas. Moreover, its enclosed position between existing dwellings and tree cover would not cause harm to the wider landscape character and appearance of the area. Consequently, I conclude that the proposal would accord with Policies CS2 and CS18 of the CS and Policy DM2 of the DDPD, which support development in the countryside which is appropriate to its context and respects distinctive local character. The proposal would also accord with the aims of the Framework to achieve high quality buildings and places through good design.

Other Matters

20. I note the Council's indication that housing delivery in Enderby has already exceeded its target for the development plan period, and that it can demonstrate in excess of a five year supply of deliverable housing land. However, the Council acknowledges these are minimum targets, and I have no evidence to suggest that Enderby has exceeded its capacity to accept more housing, but I am satisfied that the addition of a single dwelling in this location would have very limited effect on local infrastructure and would not undermine the overall spatial strategy as set out under Policies CS1 and CS5.
21. The Council did not make a finding of harm in respect of the effect of the proposal on neighbours' living conditions. A letter of objection was received from the occupants of 3 Strawberry Gardens raising concerns about overlooking of their presently private garden from the rear first floor windows and subsequent loss of privacy. I note that the floor plans were amended such that the nearest rear window to No 3 would serve an en-suite bathroom and is likely to be obscurely glazed. Based on the position of the dwelling, there would be only oblique views towards the rear part of the garden of No 3 and the presence of tall trees, including thick conifers, along the shared boundary would filter these views and maintain privacy for neighbouring occupants. These trees are indicated to be within the garden of No 3 and to be retained as part of the development. Therefore, I am satisfied that there would be no adverse effect on privacy as a result of the development.
22. No objection was raised in respect of loss of light, increased sense of enclosure or highway safety and nothing I have seen or read leads me to a different view.

Conditions

23. I have had regard to the suggested conditions provided by the Council. Where necessary, I have amended the wording to ensure the conditions meet the relevant tests. The appellant has provided written agreement to prospective pre-commencement conditions.
24. A condition is required specifying the approved plans, to provide certainty. Details of external materials and landscaping are necessary before those parts of the development are undertaken to ensure a satisfactory appearance.
25. Details of foul and surface water drainage connections are necessary to reduce the risk of flooding and to minimise the risk of pollution. A condition is also necessary to require details of proposed foundations in order to minimise the impact of the development on the roots of existing trees. These conditions are pre-commencement as these works are undertaken early in the construction process, and a later trigger for submission of details may restrict the scope of measures which can be implemented.
26. A condition is necessary to ensure the access, parking and turning areas are laid out prior to the development being brought into use in the interests of highway safety. It is also necessary to require the side elevation windows to be obscurely glazed to safeguard privacy of neighbouring residents.
27. A condition is required to ensure the detached garage remains used for purposes incidental to the enjoyment of the dwelling and not for a separate use, as this may give rise to unforeseen impacts for neighbouring residents.
28. The Council seeks removal of permitted development (PD) rights relating to potential extension and alterations to the building, namely those afforded by Classes A to E of the GPDO². The Planning Practice Guidance (PPG) advises that conditions restricting the future use of PD rights may not pass the test of reasonableness or necessity. In this case, no explanation is offered by the Council beyond seeking to ensure a satisfactory form of development. The acceptability of the dwelling is not predicated on continuing a uniform pattern of development, and having regard to the position of the dwelling relative to its nearest neighbours, I am not persuaded that there would be a demonstrable risk to the overall character of the surrounding area or occupants' living conditions from works under permitted development. Therefore, I have not imposed this condition.

Conclusion

29. For the reasons set out, I conclude that the proposal accords with the development plan taken as a whole, and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan. The appeal is therefore allowed.

K Savage

INSPECTOR

² Classes A to E of Part 2, Schedule 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO)

SCHEDULE – Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be built in strict accordance with the following approved plans: Location Plan – H150(90)01A; Site Plan – H150(90)02C; Proposed Plans – H150(PL)01B; Proposed Elevations – H150(PL)02B; Proposed Garage – H150(PL)03; Street Scene – H150(PL)04.
- 3) No development shall commence on site until full details of the means of foul and surface water drainage for the site have been submitted to and agreed in writing by the local planning authority. The works shall be carried out in accordance with the approved details before any part of the development is occupied.
- 4) No development shall commence on site until full details of the type of foundations to be used have been submitted to and agreed in writing by the local planning authority. Once approved, the development shall be carried out in accordance with the approved details.
- 5) No construction above slab level shall take place until details of the materials to be used on the external elevations of the dwelling have first been submitted to and agreed in writing by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.
- 6) The dwelling hereby permitted shall not be occupied until a plan showing a detailed soft and hard landscaping scheme has first been submitted to and agreed in writing by the local planning authority. This scheme shall include details of:
 - a. any existing trees, shrubs and hedges to be retained and measures of protection in the course of the development;
 - b. new tree and shrub planting, including plant type, size, quantities and locations;
 - c. other surface treatments;
 - d. fencing and boundary treatments;
 - e. any changes in levels or contours.

The approved landscaping scheme shall be carried out within one year of completion of the development and any trees, hedges, shrubs or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 7) The dwelling hereby permitted shall not be occupied until a minimum of three off street car parking spaces have been provided in a hard bound material. The parking spaces shall thereafter be maintained in perpetuity.

- 8) The first floor windows located in the side elevations of the dwelling hereby permitted shall be obscurely glazed and shall remain so in perpetuity.
- 9) The detached garage shall at all times be used for a purpose incidental to the enjoyment of the dwelling, and shall not be used as independent living accommodation, and should not be sold, let or otherwise disposed of.

END