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## Appeal Decision

Site visit made on 22 September 2020

**by John Dowsett MA DipURP DipUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> February 2021**

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**Appeal Ref: APP/Y2430/W/20/3254330**

**1 Belvoir Avenue, Ab Kettleby, LE14 3HP**

- 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 and Mrs Adrian Watkinson against the decision of Melton Borough Council.
  - The application Ref: 20/00192/FUL, dated 12 February 2020, was refused by notice dated 1 May 2020.
  - The development proposed is described as: Erection of bungalow to the rear of 1 Belvoir Avenue.
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### Decision

1. The appeal is allowed, and planning permission is granted for erection of bungalow to the rear of 1 Belvoir Avenue, Ab Kettleby, LE14 3HP in accordance with the terms of the application, Ref: 20/00192/FUL, dated 12 February 2020, subject to the conditions in the attached schedule.

### Main Issues

2. The main issues in this appeal are:
  - The effect of the proposed development on the living conditions of the occupiers of the neighbouring residential property at 3 Belvoir Avenue; and
  - The effect of the proposed development on the character and appearance of the area.

### Reasons

3. The appeal proposal seeks to subdivide the rear garden of 1 Belvoir Avenue, which is one half of a pair of two storey, semi-detached, houses, to create a building plot for a one bedroom bungalow. The donor property is located adjacent to the junction of Belvoir Avenue and Quorn Avenue with the side elevation of the house and the rear garden area effectively forming the north side of this short stretch of road.

#### *Living conditions of the neighbouring occupiers*

4. Policy D1 of the Melton Borough Local Plan 2018 (the Local Plan) expects, among other matters, that new development does not adversely affect the living conditions of the occupiers of neighbours and neighbouring properties. A similar provision is contained within Policy H3 of the Ab Kettleby Neighbourhood Plan 2019 (the Neighbourhood Plan).

5. These policies reflect the requirements of the National Planning Policy Framework (the Framework), which seeks to ensure that new development provides a high standard of amenity for existing and future users.
6. Number 3 Belvoir Avenue has a ground floor sunlounge that projects from the rear elevation adjacent to the common boundary with number 1. At first floor level there is a bedroom window and an opaque glazed window serving a bathroom. The rear garden of number 3 runs parallel with that of number 1 and is of a similar length. During my visit, I was able to view the appeal site from within the rear garden of this neighbouring property.
7. The proposed new bungalow would not be directly to the rear of the neighbouring property and would be offset at an angle from it. Belvoir Avenue rises along its length from the south end, where the appeal site is located, to the north. As a result, the appeal site rises by approximately 1 metre from its boundary with Quorn Avenue to the common boundary with number 3. It is proposed that the southern portion of the site would be levelled such that the base of the new bungalow would be set approximately 1 metre lower than the height of the ground at the common boundary.
8. The appellant's evidence sets out that the new bungalow would be located approximately 16.6 metres from the closest point on the rear elevation of number 3 and would be located between approximately 7 metres and 9.4 metres from the common boundary. These figures are not disputed by the Council.
9. Neither Policy cited in the reason for refusal sets out separation distances that new dwellings are required to achieve from existing dwellings. Whilst the proposed bungalow would be visible from rear windows of the neighbouring property, due to the degree and angle of separation, this would be in oblique views from the windows. As a result of the distance and position, it would not appear overbearing or significantly affect outlook. It is proposed that the ridge of the roof would run parallel with the line of Quorn Avenue, resulting in the rear roof plane sloping away from views from within the garden area of the neighbouring house. This, combined with the single storey height and the proposed lower level of the new building, would reduce the perceived height and massing. I accept that the appeal proposal would alter the outlook from the rear of the neighbouring property and its garden, nevertheless, alteration is not analogous to harm.
10. The proposed new dwelling would have windows on the rear elevation that face towards the garden area of number 3. However, due to the change in level, the proposed new intervening retaining wall, and the existing fence on the common boundary, the opportunities for casual overlooking would be limited. In addition, the rear garden of number 3 is currently overlooked to an extent by windows in the first floor rear elevations of numbers 1 and 5 Belvoir Avenue and the proposed development would not significantly increase this present degree of overlooking. The relative positions of the buildings are such that there would be no direct line of sight between windows in the rear of the proposed new bungalow and windows in the neighbouring property.
11. The new bungalow would be located to the south of the neighbouring property. No technical evidence in respect of sunlight and daylight has been submitted by any party. Nonetheless, from the submitted drawings and what I saw during the site visit, due to the separation involved, the single storey building height,

and lower level of the proposed development, it would not cast an appreciable shadow over, or result in any loss of daylight to, habitable rooms or the garden area of number 3.

12. I therefore find that the proposed development would not cause harm to the living conditions of the occupiers of the neighbouring residential property at 3 Belvoir Avenue. It would comply with the relevant requirements of Policy D1 of the Local Plan and Policy H3 of the Neighbourhood Plan.

#### *Character and appearance*

13. The appeal site is part of the garden of a house located in a mid to later twentieth century development on the edge of the settlement of Ab Kettleby. It lies to the south and west of the historic core of the village focussed along Wartnaby Road. Belvoir Avenue has a mixed character with the south end comprising of two storey, semi-detached, houses to the west side, where the donor property is located, and semi-detached bungalows to the east side. The north end of the street has a more diverse architectural character with a mix of two storey houses, bungalows, and dormer bungalows. Quorn Avenue is a short cul-de-sac with two pairs of semi-detached houses on the south side. These houses are of a similar design to those at the south end of Belvoir Avenue. The appeal site and its donor property form the north side of Quorn Avenue. To the west is an agricultural field. The existing houses and bungalows are predominantly constructed in a red brick under a tiled roof. The windows of the properties in general have a horizontal emphasis.
14. The appeal site is not within a conservation area or within the setting of a listed building. Nor is the appeal site within a designated sensitive landscape.
15. The proposed new bungalow would use similar materials, would have similar window proportions, and would have a similar solid to void ratio to the existing dwellings. Although the closest existing properties are two storey houses, in the near vicinity of the appeal site on Belvoir Avenue and Chapel Lane there are both two storey houses and bungalows with no defining pattern of development.
16. Whilst the Council's Statement makes reference to the spacing between dwellings and the existing dwellings addressing the road, I saw when I visited the site that within Belvoir Avenue there is not a regular spacing between buildings on either side of the street, with the houses being notably closer together at the north end. At the south end of the street, around the junction with Quorn Avenue, the disposition of the buildings is such that there are irregular distances between buildings. The proposed new bungalow would face onto Quorn Avenue in a similar manner to the existing houses opposite.
17. The council have also referred to the lack of a chimney on the proposed new bungalow. I did observe that most of the nearby properties have a chimney stack. This notwithstanding, these stacks are of a relatively simple and functional design rather than being a distinctive feature of the building. In this context the lack of a chimney stack on the proposed new bungalow would not be sufficient to make the proposal harmful to the character or appearance of the area.
18. I therefore conclude that the proposed development would not cause harm to the character and appearance of the area. It would comply with the relevant

requirements of Policy D1 of the Local Plan and Policy H4 of the Neighbourhood Plan, which seek to ensure that new development is of a high standard of design that has regard to its context and the local distinctiveness and character of the area in which it is situated.

### **Other matters**

19. The appeal site would be accessed from Quorn Avenue and the proposal would provide two off street parking spaces, which would meet the Council's standards for parking provision for a 1 bedroom dwelling. Quorn Avenue is a short cul-de-sac, currently serving four dwellings, that has a similar carriageway width to Belvoir Avenue.
20. I have noted that the Council has not raised any objection to the proposal on highways grounds. From what I have read and from what I saw when I visited the site, I have no reason to reach a different conclusion.

### **Conditions**

21. I have had regard to the conditions that have been suggested by the Council. For the avoidance of doubt, I have included a condition that specifies the approved drawings. In order to ensure that the proposed new bungalow maintains the visual appearance of the area, it is necessary to impose conditions requiring the development to be implemented using the materials specified on the approved drawings and the planning application form and that the boundary treatments are carried out in accordance with the submitted details shown on the drawings.
22. In order to ensure that the proposed development does not adversely affect the living conditions of the occupiers of the neighbouring property, it is necessary to attach a condition requiring that the development be implemented at the levels set out on the submitted drawings.
23. In the interests of highway safety and to ensure that adequate off street parking is provided, it is necessary to impose conditions requiring visibility splays at the site access and the parking area shown on the submitted drawings to be provided before the dwelling is occupied. The Council has suggested that a condition is required that specifies that the driveway be finished in a hard surface and not in a loose aggregate. The submitted drawings showing the parking arrangements indicate that the proposed driveway is to be constructed from block paving. As a condition is imposed requiring the parking area be implemented in accordance with the submitted drawings, I do not find that this condition is necessary.
24. The Council has suggested that a condition is required that removes the normal permitted development rights for carrying out extensions and alterations to the new bungalow and erecting buildings within the curtilage. It is not normally necessary or reasonable to restrict the future use of permitted development rights. However, in this case, due to the small size of the appeal site and the proximity to existing dwellings, in order to retain the appearance of the development, the overall character of the surrounding area, and to prevent any harm to the living conditions of the occupiers of neighbouring residential properties, it is appropriate and necessary to do so.
25. The Council has further suggested that it is necessary to restrict the use of permitted development rights to erect gates, barriers, bollards, or chains at

the vehicular access to the site. Quorn Avenue is a cul-de-sac serving a small number of dwellings and does not carry either through traffic, or high volumes of traffic or pedestrians. Whilst a vehicle standing in the highway may cause an obstruction for a short period of time, the nature of the highway is such that this would not cause an unacceptable hazard to road safety. Consequently, I do not find that this condition is necessary.

### **Conclusion**

26. For the above reasons, I conclude that the appeal should be allowed.

*John Dowsett*

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 be carried out in accordance with the following approved plans: A1-23-01-2020 Sheet 1 of 2 - Location Plan, Site Plan, Proposed Plan and Proposed Elevations, and A1-23-01-2020 Rev 2 Sheet 2 of 2 - Existing and Proposed Site Section, Proposed Front Street Scene and Landscape Plan.
- 3) The materials to be used on the external elevations of the proposal shall accord with the approved drawing A1-23-01-2020 Sheet 1 of 2 - Location Plan, Site Plan, Proposed Plan and Proposed Elevations and the details contained within the submitted Planning Application Form.
- 4) The proposed development shall be implemented in accordance with the proposed ground levels of the site and proposed finished floor levels of the development as detailed on approved drawing A1-23-01-2020 Rev 2 Sheet 2 of 2 - Existing and Proposed Site Section, Proposed Front Street Scene and Landscape Plan.
- 5) Prior to the first occupation of the dwelling hereby permitted, all boundary treatments of the site shall be erected in accordance with the details submitted on approved drawing A1-23-01-2020 Rev 2 Sheet 2 of 2 - Existing and Proposed Site Section, Proposed Front Street Scene and Landscape Plan and, once provided, shall be permanently maintained and retained as such at all times thereafter.
- 6) No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary, on both sides of the access, with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway. Once provided, the visibility splays shall be maintained as such for the lifetime of the development.
- 7) The development hereby permitted shall not be occupied until such time as the parking facilities have been implemented in accordance with the approved drawing A1-23-01-2020 Rev 2 Sheet 2 of 2 - Existing and Proposed Site Section, Proposed Front Street Scene and Landscape Plan. Thereafter, the parking facilities shall be kept available for this purpose at all times.
- 8) Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order either in whole or in part) no development within Classes A, AA, B, C, D and E shall be carried out unless planning permission has first been granted for that development by the Local Planning Authority.