



Appeal Decision

Site Visit made on 25 May 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Ref: APP/G2435/W/21/3270677

34 Blackfordby Lane, Moira, Swadlincote DE12 6EY

- 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 Richard Beesley against the decision of North West Leicestershire District Council.
 - The application Ref 20/01144/FUL, dated 28 July 2020, was refused by notice dated 28 September 2020.
 - The development proposed is erection of two bedroom bungalow with allocated parking space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was amended during the course of the application and the Council based its decision on these amended plans. I have considered the appeal on the same basis.

Main Issues

3. The main issues are the effect of the proposal on i) the character and appearance of the area, and ii) existing trees surrounding the appeal site.

Reasons

Character and Appearance

4. The appeal site is located at the end of a row of dwellings on Blackfordby Lane. The area is characterised by consistent, two storey, red brick, semi-detached dwellings set back from the road in linear patterns, with long rear gardens. Whilst there is a commercial parade a short distance away, the area is predominantly residential in character.
5. No 34 occupies a much larger site than others in the street, with significant garden space to the side of the existing dwelling which is open to view from the street. Adjacent to the site is an area of accessible green space with a public footpath running through it leading to Coronation Avenue and several mature trees providing a prominent physical feature next to the site.
6. I note that outline planning permission has been granted for the erection of a dwelling to the side of No 34 in March 2019¹, with the outstanding reserved

¹ Council Ref 17/01435/OUT

matters granted in October 2020². This appeal scheme proposes a further dwelling on the wider site of No 34, located to the rear of the approved dwelling, with an access for both running parallel to the side boundary.

7. The approved dwelling would continue the well-established linear pattern of development along Blackfordby Lane, and would have a similar rectangular plot layout with a deep rear garden. In contrast, the proposed dwelling would occupy a square plot in a backland location to the rear of the site, within the garden space between the rows of dwellings on Blackfordby Lane and Coronation Avenue. The proposal would create a form of tandem development which would further divide the rear garden of the existing dwelling, and would foreshorten the rear garden of the approved dwelling. As a result, both the approved and proposed dwellings would have gardens markedly smaller in size and different in shape than neighbouring properties.
8. I neither saw, nor am referred to, other examples of backland or tandem development in the immediate area. The addition of a further dwelling on the site would create a denser form of development at odds with the prevailing linear pattern and contrary to the rhythm, shape and spacious depth of plots along Blackfordby Lane. In views from neighbouring gardens and windows it would form a conspicuous and jarring presence amid the otherwise open space between the rows of dwellings. The incongruous nature of the proposal would be exacerbated by the fact that the dwelling would be a bungalow amid two storey dwellings, with a larger footprint than the approved dwelling to the front of the site. The significantly smaller garden area and long access drive would be further anomalous features of the development that would fail to respect the prevailing character of the area.
9. The appellant argues that the proposal would not be a form of tandem development as the dwelling would be orientated to face the public footpath and open space to the side. I disagree. The open space is not a separate street, and the dwelling would not be accessed from it. Instead it would be accessed from Blackfordby Lane and, notwithstanding its orientation, it would be read as being behind the approved dwelling and not fronting a street in its own right.
10. For these reasons, I conclude that the proposal would significantly harm the character and appearance of the area. Consequently, there would be conflict with Policy D1 of the North West Leicestershire Local Plan (November 2017) (the LP) which supports developments that offer good standard of design, informed by a comprehensive site and contextual appraisal. There would also be conflict with the aim of the National Planning Policy Framework to achieve high quality buildings and places through good design.

Effect on trees

11. Several mature trees line the public space next to the site close to the shared boundary. They are prominent in views from the public realm and rear gardens and provide welcome greenery within the suburban setting. I agree with the Council that the trees contribute positively to the visual amenity of the area. The trees are also set within the National Forest.

² Council Ref 20/01135/REM

12. Policy EN1 of the LP supports proposals which conserve, restore or enhance the biodiversity in the district. Policy EN3 requires that the siting and scale of developments in the National Forest is appropriately related to its setting within the Forest; and that development respects and does not adversely affect the character and appearance of the National Forest or the wider countryside.
13. The Council's concern relates to a beech tree (identified as T6 on plans) which the proposed dwelling would be located close to and within its root protection area (RPA). The appellant's revised plans during the course of the application are indicated to have increased the incursion of the dwelling into the RPA.
14. The appellant has provided an Arboricultural Impact Assessment & Arboricultural Method Statement (the AIA) which claims the surveyed position of trees T5 and T6 was incorrect under both the approved scheme and this proposal. Consequently, the updated plan provided shows only a minor incursion of the proposed dwelling into the RPA of the beech tree. The Council is critical of this revision to the position of the tree, but it does not present other measurements to challenge the appellant's position, which is supported by a report from a professional consultant.
15. The AIA sets out that some 5% of the RPA of tree T6 would encroach into the site, and less than 2% of the RPA would be affected by construction of the dwelling. The report also contains methodologies for temporary ground protection and 'no dig' construction of proposed hard surfaces within the site. It is indicated that relevant industry best practice and British Standards would be adhered to. I can appreciate the Council's concerns given the proximity of the tree to the dwelling and the earlier indication of a greater incursion of development into its RPA. However, on the evidence put to me in the AIA, I am satisfied that the proposed dwelling would not have a significant adverse effect on the roots of the tree and would not jeopardise its long term health.
16. I therefore conclude that the proposal would not lead to the loss of trees or consequent harm to the visual amenity of the area, and I find no conflict with the aforementioned requirements of Policies D1, EN1 or EN3 of the LP.

Other Material Considerations

17. The appellant espouses the potential benefit of the dwelling providing natural surveillance of the public footpath and open space next to the site, and argues that the existing space suffers from poor surveillance and is inconsistent with the Council's Good Design Supplementary Planning Document (April 2017) (SPD). I acknowledge that natural surveillance through the orientation of windows is generally welcomed as part of the design of new development. However, I agree with the Council that the aim of the SPD is not to seek to bring all existing developments and spaces to current design standards, but to promote such standards in new development.
18. In this case, the proposal would have only two clear glazed windows facing the public space, serving a hallway and a kitchen, the latter of which would have a limited vista, due to the projection of the building blocking views to the west. The actual extent to which the space would be overlooked by occupants of the dwelling would therefore be limited. Nonetheless, I acknowledge that the presence of a dwelling, and the resulting perception of overlooking, may have some positive effect on the behaviour of those using the open space.

19. However, although the appellant provides crime figures for the area, it is not evidenced that these incidents took place within the open space. I accept that during hours of darkness, this space may feel uninviting for some, but during the day, it has clear visibility from the main street and did not appear to me to be a place to be avoided. Consequently, I do not consider the space to be so substandard in terms of safety that a dwelling is required to provide natural surveillance. Nonetheless, there would be some modest benefit arising from the proposal as set out above but, for the reasons given, it is a matter to which I afford only limited weight overall.
20. The Council did not raise concern with the proposal in terms of the living conditions of neighbours, highway safety, drainage and the effect on the River Mease Special Area of Conservation and Site of Special Scientific Interest. From all I have seen and read, I have no reason to reach different conclusions on these issues; however, an absence of harm in these respects is a neutral consideration in the planning balance.

Planning Balance

21. The proposal would add a dwelling to the local housing stock. I am not furnished with details of the Council's housing supply position, but there is nothing in evidence which suggests a shortfall in this respect. A single additional dwelling would therefore be only a limited benefit of the appeal scheme. As set out above, the benefit of natural surveillance provided by the dwelling would be a limited benefit at most.
22. There would be economic benefits from construction and future expenditure by occupants in the local area. However, given the small scale of the proposal, such benefits would be very limited, and in some cases temporary.
23. In my judgment, the benefits of the proposal, taken together, would not amount to material considerations which would outweigh the identified conflict with the development plan, to which I afford significant weight, and they would not justify a decision being made other than in accordance with the development plan, taken as a whole.

Conclusion

24. For the reasons given, therefore, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR