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# Appeal Decision

Site Visit made on 11 October 2021

**by Andrew Smith BA (Hons) MA MRTPI**

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

**Decision date: 26<sup>th</sup> October 2021**

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**Appeal Ref: APP/K2420/W/21/3278545**

**5 White House Close, Groby LE6 0GW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Mrs Rita Morley against Hinckley and Bosworth Borough Council.
  - The application Ref 21/00590/FUL, is dated 7 May 2021.
  - The development proposed is erection of detached dwelling in side garden.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have noted references by interested parties to the potential inaccuracy of the submitted plans. However, such concerns have not been clearly substantiated and I witnessed nothing during my inspection to indicate inaccurate plans.
3. It has been brought to my attention that a Neighbourhood Plan for Groby is emerging. However, this remains at an early stage and, as such, attracts limited weight currently. I shall consider the appeal on this basis.
4. The Council has indicated that it would have refused planning permission had it been in a position to do so. Its main concerns relate to the scheme's impact upon neighbouring living conditions. I shall formulate the main issue accordingly.

## Main Issue

5. The effect upon the living conditions of neighbouring occupiers at No 14 White House Close (No 14), having particular regard to outlook and light.

## Reasons

6. The appeal site is comprised of an area of residential garden land situated to the side of No 5 White House Close (No 5), a two-storey dwelling. To the west and positioned beyond a shared accessway is No 14, a detached bungalow that is orientated to face the site. The front elevation of No 14 contains principal window openings that include a bay window.
7. The Good Design Guide Supplementary Planning Document (2020) (the SPD) sets out that the way buildings relate to each other must provide and protect acceptable levels of amenity. The SPD indicates that a principal window should ideally be positioned not less than 14m from the side of a neighbouring two-storey property.

8. In this instance a 14m separation distance between the front elevation of No 14 and the facing side elevation of the intended two-storey dwelling would not be achieved. Indeed, a cramped relationship would ensue. Whilst the orientation of the respective buildings dictates that any potential loss of light would be limited and restricted to morning hours, owing to its proximity and height, the proposed dwelling would appear overbearing and have negative implications upon the outlook experienceable from internal areas situated to the front of No 14.
9. I acknowledge that the SPD's 14m standard is a guide and not intended to be rigorously applied in all circumstances. However, having visited the site and witnessed the relationship that would exist, I find that the distinct lack of adherence to the relevant SPD standard is not justified. I further note that the site is not located within a dense urban environment where it is possible that the proposed relationship between neighbouring properties would not necessarily raise significant concerns in a living conditions context.
10. My attention has been drawn to a March 2021 appeal decision<sup>1</sup> at the same site, where planning permission was granted for a two-storey dwelling alongside the part demolition of No 5. It is evident from the approved plans that the demolition element allowed for a greater setback from No 14 to be achieved. This ultimately enabled the previous Inspector to identify that a reasonable separation distance would be achieved and that, overall, the scheme's effect upon the living conditions of neighbouring occupiers would not be significantly harmful.
11. However, although relatively minor in meterage terms, the reduction in separation now intended (when compared to the scheme granted permission in March 2021) would have a material impact upon the living conditions experienced by neighbouring occupiers at No 14. This is not least due to the sensitivities invariably associated with bringing forward two-storey development directly in front of an existing residential property's principal elevation.
12. I acknowledge that the previous Inspector did not impose a condition to restrict the future use of permitted development rights. However, if the March 2021 permission were to be implemented, any possible future permitted two-storey rear extension would necessarily be of limited depth and sited at an oblique angle relative to No 14's principal elevation. Thus, its future implications for No 14's occupiers would naturally be minimal in the context of available outlook. Similarly, any potential loss of light for No 14's occupiers caused by such a future permitted rear extension would be limited in extent and not translatable to material harm.
13. Furthermore, any side addition constituting permitted development would be restricted to a single storey and have limited implications for the living conditions of neighbouring occupiers. Also, any potential additional storey representing permitted development would need to be subject to a separate application for prior approval. Thus, even before factoring in potential deliverability constraints referred to by the appellant, I apportion limited weight to the fallback position offered by the March 2021 consent.

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<sup>1</sup> APP/K2420/W/20/3256790

14. For the above reasons, the proposal would cause harm to the living conditions of neighbouring occupiers at No 14 having particular regard to outlook. The scheme conflicts with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (July 2016) (the DPD) and the SPD in so far as this policy and guidance set out that development will be permitted provided that it would not have a significant adverse effect on the amenity of nearby residents and occupiers of adjacent buildings, including matters of visual intrusion.

### **Other Matters**

15. I have noted objections/concerns raised with respect to matters including the effects upon the living conditions of the occupiers of No 16 White House Close, the character and appearance of the area, highway safety and existing wildlife. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.

### **Planning Balance**

16. The Council has confirmed that its latest calculated housing land supply position demonstrates that a 4.46-year supply currently exists across the Borough. The National Planning Policy Framework (July 2021) (the Framework) is clear that where a five-year supply of deliverable housing sites cannot be demonstrated the presumption in favour of sustainable development, as set out under paragraph 11 of the Framework, is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
17. Policy DM10 of the DPD is consistent with the Framework in so far as it seeks the achievement of places with a high standard of amenity for existing and future users. I thus apportion significant weight to the conflict I have identified with Policy DM10 and to the associated harm.
18. In terms of the scheme's benefits, it would deliver an additional accessible and energy-efficient residential unit in a location well-served by local facilities and services and in a Borough where there is currently a shortfall in housing land supply. Indeed, small-sized sites can make an important contribution to meeting the housing requirement of an area. I also acknowledge that, when compared to the alternative proposal granted planning permission in March 2021, implementation would be more straightforward with lower associated development costs, meaning that the scheme now before me would be likely to come forward quickly should the appeal be successful. Thus, whilst the delivery of one dwelling would make a limited contribution to the Borough's housing supply, given the particular circumstances to hand I apportion considerable weight to the benefit of an additional housing unit.
19. Whilst it has been stated that less noise and disturbance would be associated with implementing the proposal when compared to the scheme permitted in March 2021, it must be noted that a small scale of development is under consideration and the duration of demolition/construction works would not realistically be protracted. Thus, any potential benefit for local occupiers in this sense attracts minimal weight.

20. It has been suggested that the proposal would result in more appropriately apportioned garden areas when compared to the fallback position. However, the approved site plan indicates the provision of seemingly acceptable and readily useable rear garden spaces. Therefore, any potential benefit in this context attracts minimal weight.
21. I acknowledge that the proposal includes an intention to infill existing side-facing windows at first floor level, which are currently orientated to face No 14. However, owing to the setback position of these openings relative to the appeal site's western boundary, any resultant privacy benefit experienced by neighbouring occupiers would be minimal and attractive of limited weight.
22. Having considered the benefits and adverse impacts of the scheme before me, I conclude that the harm and policy conflict that I have identified would significantly and demonstrably outweigh the proposal's benefits (even when considered cumulatively) when assessed against the Framework's policies taken as a whole. Thus, the presumption in favour of sustainable development, as set out in the Framework, does not apply. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

### **Conclusion**

23. For the reasons given above, the appeal is dismissed.

*Andrew Smith*

INSPECTOR