
Appeal Decisions

Site visit made on 9 December 2021

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2021

Appeal A Ref: APP/K2420/W/21/3272986 14 Chesterfield Way, Barwell LE9 8BH

- 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 Mrs Hannah Ladkin-Berry of DHASC Ltd against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 20/00919/OUT, dated 2 September 2020, was refused by notice dated 16 March 2021.
 - The development proposed is residential development for five dwellings (Outline - access and scale).
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Appeal B Ref: APP/K2420/W/21/3281222 14 Chesterfield Way, Barwell LE9 8BH

- 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 Mrs Hannah Ladkin-Berry of DHASC Ltd against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 21/00290/OUT, dated 1 March 2021, was refused by notice dated 29 July 2021.
 - The development proposed is residential development for four dwellings (Outline - access and scale).
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Decision

1. Appeal A and Appeal B are both dismissed.

Procedural Matters

2. The application in Appeal A and B was made in outline with all matters other than access and scale reserved for future consideration. I have determined the Appeal A and B on this basis, treating the submitted plans and details provided as illustrative, insofar as they relate to matters other than access and scale.
3. I have used the Council's description of the development in Appeal A in reaching my decision as it more fully describes the details of the development than that given on the original planning application form. The appellant's appeal form also make reference to the updated description. I shall determine the Appeal A on this basis accordingly.

Application for costs

4. An application for costs was made by Mrs Hannah Ladkin-Berry of DHASC Ltd against the decision of Hinckley & Bosworth Borough Council in Appeal A and B. The applications for costs are the subject of a separate Decision.

Main Issues

5. The main issues in both cases are the effect of the proposed development on
 - (i) the character and appearance of the area; and
 - (ii) the living conditions of the occupiers of the neighbouring property at No. 12 Chesterfield Way with particular regard to outlook and privacy.

Reasons

Character and appearance

6. The appeal site comprises an open and overgrown parcel of land at the rear of No. 14 Chesterfield Way, a detached dormer bungalow set back from the road within a relatively spacious plot. The site is largely open with a number of trees and other mature planting along the boundaries of the site.
7. The surrounding area is predominantly residential in character. The properties are characterised by a mixture of single and two storey properties of varied styles and designs fronting onto the highway behind front gardens/driveways. To the north east and south east of the appeal site are the relatively long garden areas associated with the adjacent residential properties, which is further enhanced by the presence of mature landscaping and established trees within the surrounding gardens, which adds to the open and verdant character of the area.
8. The outline proposal in Appeal A would involve the construction of five detached dwellings including 3 no. dormer bungalows and 2 no. bungalows and the formation of a new vehicular accessway. Appeal B would involve the construction of four detached dwellings, including 3 no. dormer bungalows and 1 no. bungalow and the formation of a new vehicular accessway.
9. The existing character of the site would change significantly as a result of the development on this open undeveloped area of land and a change in the nature of the site would be an inevitable consequence of this. Variety does not necessarily lead to harm. The appeal site is in a relatively large plot and as such the proposed development in Appeal A and B would not appear overlarge, relative to the overall plot size.
10. Given the location of the development, the proposed dwellings and the new accessway illustrated on the submitted plans would only be visible over short distances from the adjacent properties and along the accessway into the site when passing the site. The new vehicular accessway would be seen in the context of the existing vehicular driveways along Chesterfield Way. Given this context, to my mind, the proposed development and new access arrangements in Appeal A and B would not be unsympathetic to the streetscene in this location.
11. In terms of the scale of the proposed development. Although the proposed dwellings would be seen in the context of the detached dormer bungalow at the

front of the appeal site and the varied single and two storey dwellings along Chesterfield Way, the scale and layout of the proposed residential development in Appeal A and B would nevertheless be substantial in this location. The scale of the proposed dormer dwellings illustrated on the submitted plans on Plot 4 in Appeal A and Plot 3 in Appeal B would be particularly significant additions. The proposed dormer bungalows would have a maximum ridge height of about 6.5m on Plot 4 in Appeal A and about 6.7m on Plot 3 in Appeal B and would be positioned in close proximity to the south eastern boundary of the site.

12. I observed during my site visit that the south eastern boundary of the site running along the rear gardens of the properties along Hinckley Road, comprised of close boarded fencing and vegetation albeit of a limited and low nature. The proposed dwellings on the appeal site would be positioned close together and in close proximity to the south eastern boundary, that would provide limited opportunity to soften the impact of development through a comprehensive landscaping scheme in this location. As such, although they would be set back behind the existing development, the proposed development in Appeal A and B, by virtue of their scale, height and layout illustrated on the submitted plans, would appear visually cramped, compromising the sense of space and openness in the area.
13. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed dwellings on the street scene. In any case, the site is viewed from the rear of a number of surrounding properties. As such, I consider that the proposed development in Appeal A and B, by virtue of their scale, height and layout illustrated on the submitted plans, would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
14. I have considered the appellant's arguments that the scale and layout of the proposed development in Appeal A and B have been carefully considered and redesigned in order to minimise any impacts on adjacent dwellings and would be in keeping with the other properties in the area. Whilst I recognise there is some variation in the housing styles in the area and the use of matching materials, fenestrations, landscaping and boundary treatment would assist with integrating the proposal in Appeal A and B with the area, these aspects do not overcome the adverse effects outlined above.
15. Consequently, I conclude that the proposed development in Appeal A and B would adversely harm the character and appearance of the area. It would conflict with Policy DM10 of the Hinckley and Bosworth Site Allocations and Development Management Policies Development Plan Document 2016 (SADMP), insofar as they seek to ensure that proposals are of a high quality design that complements or enhances the character of the surrounding area.

Living conditions of the occupiers of the neighbouring property

16. The nearest proposed bungalows illustrated on Plot 5 in Appeal A and Plot 4 in Appeal B on the submitted plans would be located adjacent to the rear elevation of the bungalow at No. 12 Chesterfield Way (No. 12). They would be set back at a right angle from the nearest windows to the habitable rooms and garden at the rear of the No. 12 and would be separated by the long rear garden and boundary fencing at the rear of No. 240 Hinckley Road.

17. Given the indicative scale and layout of the proposed dwellings in Appeal A and B, set back, together with the boundary treatment and the separation distance between the properties, I consider that the proposed dwellings would not result in a significant loss of privacy to the main habitable rooms and garden at the rear of No. 12, nor dominate the views to cause an overbearing effect and an unacceptable sense of enclosure at the rear of No. 12. I consider the proposal in Appeal A and B would not result in an unacceptable loss of outlook and privacy nor result in a significant change in the living conditions for the occupiers of the neighbouring property.
18. Consequently, I conclude that the proposed development in Appeal A and B would not result in significant harm to the living conditions of the occupiers of the neighbouring property at No. 12 Chesterfield Way with particular regard to outlook and privacy. It would be consistent with the overall amenity aims of SADMP Policy DM10 that require development, amongst other things, not to have a significant adverse effect on the amenity of nearby residents and occupiers of adjacent buildings.

Other Matters

19. I have considered the appellant's comments regarding the lack of formal objections from the statutory bodies to the appeal schemes and the recommendation for approval from the planning officers for the appeal proposals in Appeal A and B. Whilst this maybe so, this does not preclude the proper planning assessment of the impact of the proposed development in Appeal A and B on the area and is not a determinative factor on its own.
20. I have noted the issues raised by the appellant regarding the way in which the application in Appeal A and B was processed by the Council. However, these are a material consideration to which I can attach only limited weight in making this decision.

Overall Planning Balance and Conclusion

21. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites and that the relevant policies for the supply of housing are out of date. In these circumstances, Paragraph 11 of the National Planning Policy Framework (the Framework) sets out the presumption in favour of sustainable development. For decision making this means that where the relevant policies are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
22. I have considered the various benefits put forward by the appellant that the proposal in Appeal A and B would bring arising from the scheme's design, the additional dwellings contributing to the housing supply and unmet needs in the area, making the effective and efficient use of a small site within an accessible location and through contributing to the local economy through additional building work. I have also found that the proposal would not result in unacceptable harm to the living conditions of the occupiers of the neighbouring property at No. 12 Chesterfield Way.
23. However, I have found above that taken overall the proposed development in Appeal A and B would harm the character and appearance of the area and as such would be contrary to the design aims of the relevant development plan

policy set out above. This harm would conflict with the environmental objective of sustainable development and, in my view, would be sufficient to significantly and demonstrably outweigh the scheme's benefits when assessed against the policies in the Framework taken as a whole.

24. The proposal in Appeal A and B would not therefore amount to sustainable development in the terms of the Framework. The Framework is a material consideration. However, in the circumstances of Appeal A and B, the other material considerations do not justify making a decision other than in accordance with the development plan.

Overall Conclusion

25. For the reasons given above and having considered all other matters raised, I conclude that Appeal A and B should be dismissed.

David Troy

INSPECTOR