



Appeal Decision

Site visit made on 31 May 2022 by Darren Ellis MPlan

Decision by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2022

Appeal Ref: APP/K2420/W/21/3288892

236 Ashby Road, Hinckley LE10 1SW

- 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 Chris and Mandy Wright against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 21/00130/FUL, dated 25 January 2021, was refused by notice dated 23 July 2021.
 - The development proposed is two new bungalows to the rear of the property.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of two new bungalows to the rear of the property at 236 Ashby Road, Hinckley LE10 1SW in accordance with the terms of the application 21/00130/FUL, dated 25 January 2021, subject to the conditions in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in this case are the effect of the proposal on the character and appearance of the area, and the effect of the proposal on the living conditions of the occupants of neighbouring properties with particular regard to overlooking, outlook, noise, artificial light, fumes, dust and odours.

Reasons for the Recommendation

Character and appearance

4. The appeal site comprises a two-storey detached dwelling with a detached garage, and a large, long garden with hardstanding for a tennis court. The site is in close proximity to the junction between two main roads, the A47 Normandy Way and the A447 Ashby Road.
 5. The proposed bungalows would be set to the rear of the existing dwelling and would not front onto the street. There are examples nearby of properties in backland positions, namely at 161 and 167 Ashby Road, while the properties in Ashby Grange do not front onto the main road. These examples contribute to the current character and appearance of this part of Ashby Road, which is no longer a wholly linear pattern of development.
-

6. Furthermore, the properties along the side of the street that includes the appeal site do not follow a rigid building line. The adjacent properties to the north of the site, up to and including No 240, follow a strong building line that is set back from the street with the properties at Nos 232-238 being set forwards of this line and closer to the street. The proposed bungalows would be set a small distance behind the building line of the adjacent properties up to No 240 and would be closer to this building line than the existing dwelling is. Consequently, the appeal development would not be out of keeping with the established pattern of development.
7. The built environment is comprised of a mix of building types, sizes, designs and exterior materials. The proposed dormer bungalows would be of a modest scale and would be rendered to match the existing dwelling. Overall, the scale and design of the bungalows would be in keeping with the surrounding properties. There would be an adequate separation between the existing and proposed dwellings, and each would have generous garden space so the appeal site would not appear cramped or overdeveloped. An existing access to the site would be used to provide access to the new dwellings, with the existing detached double garage being removed and replaced with a detached single garage to the rear of the existing dwelling. The bungalows and detached garage would be largely screened from the street by the existing dwelling, landscaping and proposed boundary treatments.
8. Part of the site falls within the Green Wedge which separates the settlements of Hinckley, Barwell and Earl Shilton. However, the submitted drawings show that the bungalows would be constructed outside of the Green Wedge. Three individual trees and one group of trees within the Green Wedge but close to the proposed bungalows would be removed as part of the scheme, with the remaining trees being retained. It is noted that none of the trees on the site are covered by a Tree Protection Order and the site is not within a Conservation Area, and as such the trees could be removed or reduced in size at any time without requiring planning permission.
9. The proposal would include a 1.8m-high closeboard timber fence to divide the rear gardens of the bungalows, however this fence would have very limited visibility from outside the site owing to the boundary trees and landscaping. Overall, the proposal would not detract from the character or purpose of the Green Wedge, the surrounding countryside or the adjacent allotments. Furthermore, permitted development rights for extensions, alterations and outbuildings, which could affect the character and appearance of the Green Wedge, could be removed by condition.
10. Any future proposals for new housing to the rear of the properties along this part of Ashby Road, or in the Green Wedge or surrounding countryside, would require planning permission and as such would need to satisfy all relevant local and national planning policies.
11. Consequently, the proposed backland development would not cause any harm to the character and appearance of the area. It has therefore been demonstrated that the site is capable of accommodating this type of development and that the proposal would be justified in this context and would complement the character and appearance of the area.
12. For these reasons, the proposed development would have an acceptable impact upon the character and appearance of the area. It would, therefore, not conflict

with Policy DM10 of the Site Allocations and Development Management Policies DPD (July 2016) (DPD) which requires, amongst other things, for development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, and materials. The proposal would also accord with DPD Policy DM4 and Policy 6 of the Core Strategy (December 2009), which require development to retain the function of the Green Wedge and the visual appearance of the area. The proposal would also comply with the guidance in the Hinckley & Bosworth Borough Council 'The Good Design Guide' Supplementary Planning Document (2020) (SPD), which amongst other things contains guidance in relation to backland development.

The effect on the living conditions of the occupants of neighbouring properties

13. Representations have been received from the occupants of neighbouring properties raising concerns of the effect of the proposal on their living conditions, with particular regard to overlooking, outlook, noise, artificial light, fumes, dust and odours.
14. The proposed bungalows would be set towards the line of the rear boundaries of the adjacent properties to the north, and the first-floor rear windows would provide views predominantly down the rear gardens of the bungalows. Given this layout, any overlooking of neighbouring gardens would be minimal and limited to the areas of garden furthest from the dwellings.
15. The detached garage and bungalow nearest to the boundary with No 238 would be of a modest height and scale and both would be set away from the boundary. Consequently, the proposal would not result in a significant overbearing impact to No 238.
16. The construction of the new dwellings would result in noise and the creation of dust and fumes. However, the construction period would be temporary, and a condition would restrict the hours of construction. If the hours of construction were to be shortened, it would prolong the construction period and the associated effects on neighbouring properties.
17. Fumes, artificial light and noise would also be created by vehicle movements on the site next to the rear garden of No 238 once the dwellings are occupied. Bins from one of the proposed dwellings would also be stored near to the boundary with No 238.
18. However, the additional movements would only affect the site and surrounding properties for short periods of time while the vehicles are accessing or egressing the property and, as the proposal is only for two properties, the number of additional vehicle movements would be limited. Furthermore, the dwelling at No 238 is located away from the boundary with the appeal site, which would be marked by a closeboard timber fence some 1.8m high, and its rear garden is a reasonable size and currently contains some mature planting.
19. The proposed development would interfere with nearby occupiers' peaceful enjoyment of their homes, during both construction and occupation. I have had regard to the evidence of the personal circumstances of the occupiers of No 238 and from this I consider that the occupiers may have protected characteristics under Section 4 of the Equality Act 2010. Consequently, I have had due regard to the Public Sector Equality Duty (PSED) contained at Section 149 of the Equality Act 2010, which requires me to consider the need to

eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. However, it does not follow from the PSED that the appeal should fail.

20. I am satisfied that any interference from the proposed development would be limited and that a grant of planning permission would be a proportionate outcome in this case.
21. For the above reasons, the proposed development would not result in any unacceptable harm to the living conditions of the occupants of neighbouring properties with particular regard to overlooking, outlook, noise, artificial light, fumes, dust and odours. The development would, therefore, not conflict with DPD Policy DM10 or guidance in the SPD, which require amongst other things for development to not have a significant adverse effect on the amenity of nearby residents and occupiers of adjacent buildings.

Other Matters

22. Representations have also been received raising concerns on matters including highway safety, ecology and drainage.
23. The proposed bungalows would each have driveways for two cars and an attached garage, while the existing dwelling would retain a large driveway in addition to the proposed single garage. This should provide adequate parking for the occupants of and visitors to all of the properties, and as such any increase in on-street parking would be limited and temporary. The addition of two new dwellings would increase the likelihood of delivery vehicles at the appeal site, however such vehicles are usually infrequent and are only stationary for short periods of time. As such the proposal would not have any significant effect on highway safety with regards to on-street parking. Furthermore, should any significant highway safety issues arise, then parking restrictions could be imposed by the Council or Local Highway Authority.
24. Traffic levels are already high at the nearby traffic-signal controlled junction between the A47 and Ashby Road. However, the provision of two additional dwellings is unlikely to result in a significant increase in vehicle movements. The Council has not raised any concerns in relation to highway safety, subject to conditions regarding visibility splays, access arrangements, parking and turning areas and the provision of a construction traffic management plan. Furthermore, the proposal would not interfere with the siting of the existing bus stop. Based on the evidence before me I have no reason to disagree with the Council's assessment of highway safety.
25. It is acknowledged that while some of the trees and landscaping on the site will be removed as part of the development, a large number would remain. The bungalows themselves would be constructed on the site of an existing area of hardstanding, with very little alteration to the trees and landscaping to the rear of this hardstanding. Overall, the proposal would not have a significant impact on ecology and wildlife.
26. It has been stated that the sewerage and drainage system at and near the site is of some age and that there have been previous problems with poor drainage. However, I note that the Council has not raised any objections on the grounds of sewerage and drainage and did not consult Severn Trent Water on the

proposal. There is no substantive evidence before me that the addition of two modestly sized bungalows in a residential area would result in an increased risk of flooding, including from sewers. Furthermore, a condition could be added to any permission requiring the details of a sustainable drainage system (SuDS) to be submitted and approved by the Council to help manage drainage from the proposed development.

27. The protection of a view and the effect of a development on house prices are not planning considerations.

Conditions

28. The Council has suggested a number of conditions, which I have considered in the light of the advice in the Framework and Planning Practice Guidance. In some cases, I have edited the suggested condition for clarity and enforceability. The appellant has provided agreement to some of the conditions being 'pre-commencement' conditions which I have suggested where appropriate and necessary.
29. I have imposed the standard time limit condition and in the interests of certainty specified the approved plans. The suggested conditions which would require the exterior materials and finished levels to match the details on the approved drawings are unnecessary as these details would already be included in the approved drawings condition.
30. The Council's suggested conditions which require a construction traffic management plan, surface water drainage details and calculations, and a Tree Protection Plan, method statement and root protection scheme are necessary to ensure a satisfactory development of the site and in the interests of highway safety, flood prevention, and tree protection and visual impact respectively. Given the requirements of these conditions, I am satisfied that they should be pre-commencement conditions.
31. It is necessary to attach a condition limiting the hours that demolition and construction works can take place to protect the living conditions of the occupants of neighbouring properties.
32. A condition requiring the submission of and adherence to a landscaping scheme is necessary in the interests of the character and appearance of the area.
33. To comply with DPD Policy DM10(g) and to facilitate a change to low carbon vehicles in line with national policy, a condition requiring details of electric vehicle charging points is necessary.
34. In the interests of highway safety, conditions requiring that the access arrangements, visibility splays and parking and turning facilities should be provided before the dwellings are occupied are necessary.
35. A condition is necessary for the waste storage and collection facilities to be provided prior to the occupation of the dwellings to ensure the development does not cause harm to the appearance of the area.
36. A condition for the removal of permitted development rights for extensions, alterations and outbuildings, is necessary to ensure the development does not cause harm to the character and appearance of the area and Green Wedge.

37. To prevent vehicles entering the site from obstructing Ashby Road, the removal of permitted development rights for gates, barriers, bollards, chains or other such obstructions within 5 metres of the highway boundary is necessary.

Conclusion

38. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and planning permission granted subject to the conditions in the attached schedule.

D Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

39. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I conclude that the appeal is allowed and planning permission granted, subject to the conditions in the attached schedule.

A Parkin

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1882-LP-003; 1882-SP-002C; 1882-EV-006; 1882-SK-004A; 1882-SK-005A; 1882-SP-007B; Arboricultural Impact Assessment, reference 210210 1121 AIA V1 dated 22nd February 2021; Ecology Impact Statement, reference C2506-1 dated 30th September 2020.
- 3) No development shall commence on the site until a construction traffic management plan for construction vehicle parking and the unloading / storage of materials with a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 4) Development shall not begin until surface water drainage details and calculations, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details prior to the completion of development and shall be retained thereafter.
- 5) Before any development commences on the site, including site works of any description, a final Tree Protection Plan, Exclusion Zone and detailed method statement shall be prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone and root protection area in accordance with British Standard 5837:2012 Trees in relation to design, any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.
- 6) No development shall take place until the ProtectaWeb System as identified in Appendix 4 of the Arboricultural Impact Assessment by Wharton dated 22nd February 2021 is installed in accordance with the approved details and shall be maintained as such so long as the development remains.
- 7) Demolition or construction works shall take place only between 07:30 and 18:00 on weekdays and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 8) No development shall take place above slab level until details of the new tree planting including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme prior to occupation of the new dwellings. The soft landscaping scheme, including the retained trees as identified on the approved plans shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed,

or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

- 9) Prior to any construction above slab level, details of electric vehicle charging points for each new dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the occupation of any new dwelling.
- 10) No part of the development hereby permitted shall be occupied until the access arrangements and visibility splays shown on drawing no. 1822-SP-007B have been implemented in full and shall be permanently retained thereafter, with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 11) The development hereby permitted shall not be occupied until the parking and turning facilities have been implemented in accordance with drawing no. 1822-SP-004A. Thereafter the onsite parking provision shall be so maintained permanently in perpetuity.
- 12) The development hereby permitted shall not be occupied until the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained permanently in perpetuity.
- 13) The new dwellings shall not be occupied until the waste storage and collection facilities have been provided in accordance with drawing no. 1882-SP-002C and these facilities shall be retained permanently thereafter.
- 14) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings shall be carried out or outbuildings erected in the curtilage of either new dwelling.
- 15) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary, unless hung to open away from the highway.