



Appeal Decision

Site visit made on 18 October 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 NOVEMBER 2022

Appeal Ref: APP/K2420/W/22/3301962

84 Leicester Road, Hinckley, Leicestershire LE10 1LT

- 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 Paul Morris (Merriwell Properties Ltd) against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 21/00981/FUL, dated 28 July 2021, was refused by notice dated 13 May 2022.
 - The development proposed is erection of six detached dwellings.
-

Decision

1. The appeal is dismissed.

Main Issues

2. Having regard to the Council's refusal reason and appeal submissions, I consider the main issues are (i) the effect of the development on the character and appearance of the area, and (ii) whether a planning obligation is needed that requires a financial contribution towards the provision or enhancement of green space and play provision.

Reasons

Character and appearance

3. The appeal site is an overgrown plot of land that is fenced off but contains no buildings. It lies behind 84, 84a and 86 Leicester Road (Nos 84, 84a and 86), which are all dwellings that face onto the highway. There is a driveway to the side of No 84 that provides access to the main part of the site. This allows views from the road of mature trees and bushes on the site's rear boundary. Also, the long back gardens of residences on either side of the site contain mature vegetation.
4. The surrounding area is predominantly residential with a mix of dwellings, although most face onto the highway. There are nearby examples of houses set behind properties on backland sites. However, these tend to be single storey and low-key and so they are not a defining characteristic of the area.
5. To a degree, the proposed dwellings would be screened from Leicester Road by Nos 84, 84a and 86. However, the gap for the access as well as a space to the side of No 86 means the proposed houses would be seen from the road. As such, the development would be viewed in the context of the existing street scene. Moreover, the scheme would be visible and would appear prominent from adjoining properties.

6. The proposal would clearly have a marked effect on the appearance of the site. Rather than open space that allows views from the street of mature vegetation, the development would introduce a group of 2 storey high houses. The units on plots 2 to 5 would have upper floor accommodation in the roofspace. Nevertheless, they would still appear larger than the low-key buildings on nearby backland sites.
7. Furthermore, whilst they would all be detached, the proposed dwellings would be fairly close to each other and to the side boundaries of the plot. Therefore, the scheme as a whole would appear unusually cramped and dense, particularly in the context of the adjoining spacious back gardens. As the development would be seen clearly from the road and adjacent properties, the incompatibility of the scheme with the existing urban grain would be harmful to the visual qualities of the area.
8. The appellant suggests the proposed plot sizes would be comparable to others on Leicester Road and the gardens would exceed minimum standards as set out in the Council's Good Design Guide Supplementary Planning Document (the SPD). However, even if this is accepted, it does not address the concern in respect of the inappropriate size of the proposed dwellings on a backland site and their position close to each other and to the site boundaries. Therefore, the layout of the proposal would not be sympathetic to its context.
9. The current proposal is a revision to a previous scheme for 7 dwellings that was refused planning permission and dismissed at appeal¹. The amendments seek to address concerns the Inspector raised with the previous proposal, but it does not follow that the development is now acceptable. Despite the reduction in the number of houses and garages, the proposal would still appear overdeveloped and markedly at odds with the more verdant and spacious areas to the rear of Leicester Road properties. The traditional design of the houses, the use of appropriate materials and the inclusion of active frontages and new landscape features would not address or override my concerns.
10. For these reasons, I conclude the development would harm the character and appearance of the area. In these regards, it would not accord with policy DM10 of the Council's Site Allocations and Development Management Policies DPD 2016 (the DPD). Amongst other things, this policy seeks to ensure development complements the character of the surrounding area.

Green space and play provision

11. The development includes no public green space or play area and so the Council seeks a financial contribution towards the provision or enhancement of off-site facilities. The appellant states that as open space already exists, no contribution is necessary, particularly as the proposal is for just 6 new units.
12. Policy 19 of the Council's Core Strategy 2009 (CS) sets out green space and play provision standards that are to be used to determine whether improvements are needed to existing facilities or further areas are required. This follows on from the Council's commitment to address existing deficiencies in the quality, quantity and accessibility of green space and play provision in Hinckley as set out in CS policy 1. Policy DM3 of the DPD also states that

¹ Appeal reference number APP/K2420/W/19/3221783

developers will be expected to make provision for additional facilities where a need is created by proposals.

13. In this instance, the Council suggests a figure of £12,578 is required which would be used to provide play and open space at Burbage Common. However, no detailed evidence that defines the extent of any local deficiencies in green space and play facilities has been provided. Nor has any detailed information been submitted to show how the proposed contribution would be spent. Accordingly, I cannot be certain that the contribution sought would be necessary to make the development acceptable or that it would be directly related to the development and fairly and reasonably related in scale and kind. Consequently, and notwithstanding the aims of the referred to development plan policies, I am unable to conclude that a planning obligation that requires this contribution would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010.
14. In these circumstances, I conclude the absence of a planning obligation that requires a contribution towards green space and play provision does not weigh against the development. In these regards, the proposal would accord with CS policies 1 and 19 and DPD policy DM3.

Other Matters and Planning Balance

15. I have found the proposal would be acceptable in terms of the second main issue. However, the harm identified to the character and appearance of the area means the proposal would be contrary to the development plan when read as a whole. It follows to consider whether other factors justify granting planning permission contrary to the development plan.
16. The Council officer's report on the application leading to this appeal indicates that only a 4.45 years' supply of housing land can be demonstrated. Therefore, it is accepted that 5 years' supply as required under the National Planning Policy Framework (the Framework) cannot be shown. In such circumstances, paragraph 11 of the Framework indicates that relevant development plan policies should be deemed as out of date. Paragraph 11 goes on to require consideration of the benefits and the adverse impacts of the development against the policies of the Framework as a whole.
17. The development would add to the housing stock and would provide new dwellings in a urban location where residents would have good access to facilities. Given the number of units proposed, this factor attracts modest positive weight in my assessment.
18. The Council raises no concerns that the proposal would unduly harm the living conditions at any nearby residence. Also, despite the concerns raised regarding the size and position of parking spaces, I find the development would be acceptable in terms of parking and highway safety. The site is not identified as being at unacceptable levels of flood risk and the proposal would include an appropriate drainage system. No harm would be caused to the trees to be retained to the rear of the site. Acceptability in all of these regards is a neutral factor in my assessment rather than a benefit to which I attach positive weight.
19. For the reasons as set out under the first main issue, the proposed development would not be visually attractive nor sympathetic to local character, albeit the scheme would represent an increase in housing density.

As such, the proposal would not be well-designed having regard to its context and so under the terms of the Framework it should be refused. I attach significant weight to the harm that would be caused to the character and appearance of the area.

20. Having regard to all material factors, I find that the adverse effects of the development would significantly and demonstrably outweigh its modest benefits. As such, the presumption in favour of sustainable development as laid out in paragraph 11 of the Framework does not apply.

Conclusion

21. The proposed development would be harmful to the character and appearance of the area and so it would not accord with the development plan when read as a whole. Moreover, there is insufficient justification to grant planning permission contrary to the development plan. Accordingly, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR