



Appeal Decision

Site visit made on 10 January 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2023.

Appeal Ref: APP/K2420/W/22/3306126

Land to the rear of 122 Station Road, Market Bosworth, Nuneaton CV13 ONP

- 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 Cox against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 21/00439/FUL, dated 7 April 2021, was refused by notice dated 30 May 2022.
 - The development proposed is erection of a dwelling and garaging alongside the formation of a private access drive.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a dwelling and formation of a private access drive, at Land to the rear of 122 Station Road, Market Bosworth, Nuneaton CV13 ONP, in accordance with the terms of the application Ref 21/00439/FUL, dated 7 April 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading is taken from the application form. However, the proposal was amended during the course of the application and the garage was removed. The Council made their decision on the basis of the amended plans, which do not include a garage. My appeal decision is made on the basis of the same plans. Consequently, in the appeal decision above, reference to garaging has been removed from the description of development.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the site and the surrounding area.

Reasons

4. The site is located to the rear of semi-detached dwellings at 122 to 128 Station Road, with an access strip to the side of No 122. The site is bounded by residential gardens, other than along one side which borders school playing fields. The section of Station Road within which the site is located consists of a mix of dwellings of various ages, sizes, heights, designs and finishes. Most dwellings sit within a generous plot but the area does not have a distinctive or defining character and appearance.

5. The proposal would introduce a single storey dwelling to the site. The dwelling would be a simple and low key design constructed in rendered brick and tile. The proposed dwelling would sit behind the existing row of dwellings on the north side of Station Road and would have no direct street frontage. There are no other dwellings in a similar location in the immediate surrounding area and hence the proposal would be out of keeping with the established pattern of development. There is a dwelling to the rear of 121 Station Road, opposite the site, on the south side of the road, but the context of this is quite different, being surrounded by other dwellings. In addition, permission for it was granted under a previous development plan.
6. Visibility of the proposed dwelling from the street would be limited and it would not be a prominent element within the streetscene. The proposed dwelling would be visible from the playing fields to the rear, but this would be mitigated to an extent by existing trees and hedges at the boundary, which could be supplemented by additional planting secured by condition. From the playing fields, the proposal would be viewed in the context of the existing dwellings. While the scale of the proposal would be larger, many of the long rear gardens along Station Road which border the playing fields, also contain substantial outbuildings.
7. The failure of the proposal to follow the prevailing layout of the area does not meet the design expectations set out in local planning policy. However, due to the lack of consistency in character and appearance in the area and the low level of visibility of the proposed dwelling within the streetscene, it would result in limited harm.
8. The proposal would also introduce changes to the existing access to No 122 to allow it to also serve the new dwelling, as well as changes to the parking layout at No 122. Most dwellings in the area are served by a drop kerb and on site parking to the front, with a variety of arrangements and surfaces to parking areas. No 122 is the end dwelling in a run of semi-detached dwellings, with 120 to 116 Station Road being large, detached dwellings served by generous access points and extensive hard surfaced parking areas. As such, while the changed access would serve 2 dwellings, the character and appearance of the proposed access and parking arrangements would not be out of keeping with the area.
9. I conclude that the proposed development would result in harm to the character and appearance of the site and the surrounding area with regard to layout. Consequently, the development would not comply with Policies DM10 of the Site Allocations and Development Management Policies document 2016 and CE1A of the Market Bosworth Neighbourhood Plan and guidance in The Good Design Guide Supplementary Planning Document. Together, amongst other things, these policies seek to secure development which retains local distinctiveness and is in keeping with the character of the surrounding area, including in terms of layout.

Planning balance

10. It is common ground that the Council cannot demonstrate the deliverable supply of housing sites as required by the Framework. Therefore, in accordance with the provisions of paragraph 11d and footnote 8 of the National Planning Policy Framework (the Framework), policies which are most important for determining the application are considered to be out of date. The proposal does not impact on areas or assets of particular importance, so in accordance with

paragraph 11dii, permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

11. In terms of benefits, the dwelling would make a contribution towards the supply of housing, in an area with an ongoing under supply. There would also be social and economic benefits arising from the construction period and future spend of occupants giving support to local services and facilities. As construction benefits would be short term and the proposal adds only a single dwelling to local supply, I give these benefits limited weight. However, as set out above, the harm arising from the proposal being at odds with the established layout, would also be limited.
12. With the above in mind, and when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits. Consequently, the paragraph 11d presumption in favour of sustainable development applies and advises that planning permission should be granted. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be in accordance with the development plan unless material considerations indicate otherwise. In this case, the presumption in favour of sustainable development is a material consideration of sufficient weight to indicate that permission should be granted notwithstanding the minor conflict with the development plan.

Other Matters

13. Interested parties have commented that the proposal would have a detrimental impact on highway safety and neighbouring privacy. While the on-site parking area for No 122 would be moved, the parking layout would not be significantly different to the current layout at the site and other semi-detached dwellings in the area. The access is existing and would serve only one additional dwelling. I have been presented with no substantive information which would lead me to conclude that this change would result in significant highway safety issues, or that emergency vehicle access could not be provided as necessary¹.
14. The access drive would be close to the side of No 122, but the side elevation does not contain main windows serving habitable rooms so any impact on privacy would be limited and could be mitigated by a suitable boundary treatment. The separation distance and location of windows in the proposed dwelling would be sufficient to maintain privacy in habitable rooms of the existing and proposed dwelling and ensure the development did not unacceptably dominate neighbour outlook. Privacy between the proposed and existing gardens could be protected with a suitable boundary treatment.
15. Consequently, the proposal would not have an unacceptable impact on highway safety and privacy. This concurs with the Council decision which did not include these matters in their reason for refusal. In addition, any restrictions imposed through covenant or deeds are not for me to consider under the provisions of a Section 78 planning appeal. They are covered by other legislation not under my remit.

¹ The plans were amended to widen the access drive during the course of the application.

Conditions

16. Both the Council and the appellant have suggested conditions, which the other party has been made aware of. I have considered the suggested conditions and amended and reordered them as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance (PPG).
17. A condition specifying the approved plans is necessary to provide certainty. In the interests of the character and appearance of the site and surrounding area, conditions are necessary to ensure the use of appropriate materials in the external surfaces of the development and to secure the implementation and maintenance of appropriate landscaping. A condition to secure implementation of the access, parking and turning arrangements is necessary in the interest of highway safety.
18. Permitted development rights should not be removed without good reason. However, in this case, due to the modest size of the garden, the location of the site on the edge of the settlement, and the location of the new dwelling in relation to existing dwellings, I consider it to be both reasonable and necessary to remove permitted development rights for extensions, new windows and outbuildings. This is to ensure the retention of sufficient outside amenity space to meet the needs of future occupants of the dwelling, to protect neighbouring privacy and maintain the character and appearance of the surrounding area.

Conclusion

19. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, the appeal is allowed.

Helen Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings – Block Plans, drawing 128790-002D; and Proposed elevations and floor plans, drawing 128790-003B.
- 3) No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used in the external elevations of the dwelling hereby permitted have been deposited with and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
- 4) No development above foundation level shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be implemented no later than the first planting season following occupation of the dwelling.

- 5) The development hereby permitted shall not be occupied until the access, parking and turning arrangements have been implemented in accordance with the approved plans. Thereafter the arrangements shall be so maintained in perpetuity.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order), no extension or enlargement, including additions to the roof, and no insertion of new windows, shall be undertaken at the dwelling hereby permitted and no building shall be erected within the curtilage.

*****End of Conditions*****