



Appeal Decision

Site visit made on 31 May 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/K2420/W/23/3314796

17 Bridge Lane, Witherley, Leicestershire CV9 3LG

- 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 Maurice Noakes against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 22/00447/FUL, dated 6 May 2022, was refused by notice dated 25 November 2022.
 - The development proposed is construction of 2 new dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers.

Reasons

Character and Appearance

3. The appeal site is an extensive plot that comprises the existing dwelling at 17 Bridge Lane (No 17). The existing dwelling is a 1.5 storey detached dormer bungalow, set back from and facing the road. A detached garage sits forward of the dwelling positioned near to the site's northern boundary. The site currently has several domestic sheds and outbuildings to its rear and is surfaced in hardstanding material with some lawned areas.
4. The prevailing pattern of development nearby is characterised by residential properties with private rear gardens. The existing residential development is of mixed design but are set back and orientated towards the highway.
5. The proposed dwelling on Plot 2 would be positioned to the rear of the site, with its front elevation and entrance facing away from the highway. Its side elevation would be predominantly blank, featuring a small bathroom window at ground floor level and a single storey projection with only one principal window. This orientation is primarily influenced by the constraints imposed by the site and the proximity of the host dwelling and the proposed dwelling on Plot 1, which would be positioned forward of Plot 2. Consequently, the substantial distance from the highway, orientation, and design of the proposed

- dwelling would create a sense of disconnection, contradicting the existing pattern of development and harming the character and appearance of the area.
6. Furthermore, the positioning of the existing dwelling and the proposed dwelling on Plot 1 would create a long narrow access driveway to Plot 2. This tunnelling effect between the two dwellings would offer only glimpses of the proposed dwelling on Plot 2 from the highway. As a result, it would not be cohesive with the street scene.
 7. The rear siting of Plot 2 would, to some extent, limit its wider effect on the character and appearance of the area, nevertheless it would be highly visible from neighbouring gardens and would disrupt the visual harmony of its surroundings.
 8. The proposed development would include sympathetic detailing and materials respectful of the buildings in the surrounding area that could be reasonably secured through the imposition of planning conditions. It would also provide adequate garden space for each of the dwellings. However, these acceptable aspects would not outweigh the harm identified.
 9. Consequently, the proposed development would be at odds to the existing pattern of development, diminishing the character and appearance of the area.
 10. As such, the proposal would fail to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD (2016) (SADMP). Amongst other things, this policy seeks to ensure development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. The proposal would also conflict with the Council's Good Design Guide Supplementary Planning Document (2020) (SPD), which, amongst other things, seeks to encourage high quality design and ensure that local identity is preserved and enhanced.
 11. In addition, the proposal would fail to accord with the design objectives of the National Planning Policy Framework (Framework).

Living Conditions of neighbouring occupants

12. The proposed dwelling on Plot 1 would be sited near to the rear gardens on 4 and 6 Watling Street. These existing dwellings also have principal windows to habitable rooms in their rear elevations.
13. The Council's Good Design Guide SPD (2020) includes a diagram in figure 26 on page 35 that illustrates the minimum separation distances that are required between buildings to provide adequate living conditions. The SPD states that for back to side distances, "a principal window to a habitable room should ideally not be less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property and above." However, the SPD does not provide guidance on an appropriate separation distance for a 1.5 storey dwelling.
14. As the proposed dwelling on Plot 1 would be a 1.5 storey dwelling that would utilise a master bedroom on its first floor, it is reasonable to consider the dwelling as being closer to a two-storey dwelling and not a single-storey dwelling. As such, an adequate separation distance for a 1.5 storey dwelling would need to be closer to 14m. In my judgement, based on the evidence before me and my site observations, and considering the site's broadly flat

topography and the proposed dwelling's slight orientation to the neighbouring dwellings, a separation distance of 12m would be an acceptable minimum distance for the proposed dwelling.

15. The rear elevation of 4 Watling Street would be 10.8m from the side elevation of the proposed dwelling on Plot 1. Additionally, the rear elevation of 6 Watling Street would be 10.8m from the side elevation of the proposed dwelling on Plot 1. Therefore, the rear elevations of both 4 and 6 Watling Street would be less than 12m from the predominantly blank plain brick side elevation of Plot 1. I consider this shortfall in separation distance would result in the proposed dwelling being a significant mass of built form in close proximity to the neighbouring dwellings, and in particular their rear garden. Consequently, it would appear as an enclosing feature when viewed from the windows and rear garden of these neighbouring dwellings. I conclude that the harm caused by loss of outlook would be unacceptable to the neighbouring occupants living conditions.
16. Although the proposed dwelling would not span the entire width of the rear garden boundary for either property, it would be positioned in close proximity to the rear garden boundaries of these neighbouring properties, both of which have relatively small gardens. Consequently, this would create an overbearing impact for the reasons explained.
17. I have had regard to the appellant's suggestion of imposing a condition to remove permitted development rights for garden structures, which would restrict such development were planning permission to be granted. However, this would not overcome the harm identified.
18. Consequently, the proposal would fail to accord with Policy DM10 of the SADMP. This policy, amongst other things, seeks to ensure that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings. The proposal would also fail to comply with the Council's SPD (2020), which provides guidance on design. In addition, the proposal would fail to accord with the Framework (para 130) where it seeks a high standard of amenity for existing and future users.

Other Matters

19. My attention has been drawn to a previous planning approval, identified as 71/632 in the appellant's statement of case. This previous approval was for the erection of two dwellings on the site at 17 Bridge Lane. However, the Council has stated that the existing dwelling at 17 Bridge Lane was not constructed in accordance with the approved plans for 71/632 and therefore planning permission is not extant. Based on the evidence before me, I have no reason to disagree. Furthermore, this lapsed permission pre-dates the currently adopted Local Plan and national planning policy. I have determined this appeal on its own merits having regard to the site-specific characteristics and the development plan at the time.

Planning Balance

20. The proposal would deliver two dwellings that would make an economic contribution during the construction period and subsequently from future occupiers in terms of spending in the local area. The proposal would also support the provision of homes on a small windfall site to meet the needs of

present and future generations. However, as the proposal is for only two dwellings, these benefits would be modest and would not outweigh the harm identified.

21. The Council's evidence indicates that they do not have a five-year housing land supply. The Council refer to a supply of 4.89 years; this figure has not been disputed by the appellant. The lack of a 5-year housing land supply means that the policies which are most important for determining the proposal are out-of-date, in accordance with paragraph 11d) of the Framework. However, part ii. of paragraph 11d) clarifies that permission should not be granted if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. There would be harm arising from this proposal that is so significant that the adverse impacts of granting permission relating to the two main issues would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

22. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

H Smith

INSPECTOR