
Appeal Decision

Site visit made on 4 December 2023

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal Ref: APP/K2420/W/23/3324098

7 Dean Road, Hinckley LE10 1LG

- 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 Terry Taylor against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 22/01056/FUL, dated 14 October 2022, was refused by notice dated 24 May 2023.
 - The development is proposed new dwelling, garage and private drive.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues 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. 5 Dean Road with particular regard to privacy and outlook.

Reasons

Character and appearance

3. The appeal site forms part of the rear garden area of No.7 Dean Road (No.7), a detached bungalow set back from the road within a relatively spacious plot. The site is a largely open and verdant parcel of land that dog legs to the rear of No. 7, with a number of trees and other mature planting within and along the boundaries of the site. The site is slightly elevated above the adjacent properties along Dean Road due to the sloping topography in the area.
4. 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 south, east and west of the appeal site are the long rear garden areas and the outbuildings associated with the adjacent properties. Where outbuildings and other structures exist behind the residential properties, these are very low, small in scale, clearly subsidiary, and have little impact upon the sense of space and openness in the area. This gives the area a strong unifying open character and appearance, which is further enhanced by the presence of mature landscaping and established trees within the surrounding gardens.

5. The proposal would involve the construction of a detached two storey dwelling and detached garage with associated landscaping accessed via a new vehicular accessway to the side of No.7. The external finish of the dwelling would be predominantly constructed with a rendered finish, timber cladding and red facing brick plinths and designed with double hip to gabled pitched tiled roof with an overall ridge height of about 7.2m. The detached double garage with living accommodation above in the roofspace would be predominantly constructed with a timber cladding finish and designed with gabled pitched tiled roof with an overall ridge height of about 6.0m.
6. 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 would not appear overlarge, relative to the overall plot size. The new vehicular accessway would be seen in the context of the existing vehicular driveways at the appeal site and along Dean Road.
7. Given the location of the development, the proposed development 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. Given this context, to my mind, the proposed backland development and new access arrangements would not be unsympathetic to the streetscene in this location.
8. In term of the design, scale and layout of the proposed development. Although visually, the design of the proposed dwelling and garage would be acceptable and would be seen in the context of the varied house styles and designs along Dean Road, the scale and two storey form of the proposed development would nevertheless be substantial in this location. The proposed dwelling and garage illustrated on the submitted plans positioned on this slightly elevated site and in close proximity to the side boundaries, would provide limited opportunity to soften the impact of development through a comprehensive landscaping scheme. As such, although it would be set back behind the existing development, the proposed development, by virtue of its scale, siting and layout, would appear visually cramped and would compromise the sense of space and openness in the area.
9. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed development on the street scene. In any case, the site is viewed from the rear of the surrounding properties. As such, I consider that the proposed development, by virtue of its scale, siting and layout, would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm the character and appearance of the area.
10. I have considered the appellant's arguments that the design and layout of the proposed development have been carefully considered and redesigned in order to minimise any impacts on adjacent dwellings and the area 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 with the area, these aspects do not overcome the adverse effects outlined above. As such, I consider the proposed development

would adversely harm rather than positively contribute to the character and appearance of the area.

11. Consequently, I conclude that the proposed development 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 it seeks 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

12. The proposed garage illustrated on the submitted plans would be located adjacent to the rear elevation of the bungalow at No. 5 Dean Road (No. 5). The first floor level roof windows at the front of the garage serving to the living accommodation above, would be set back from the nearest windows to the habitable rooms and garden at the rear of the No. 5 and would be separated by the rear garden and boundary fencing at the rear of No. 5.
13. Whilst I accept that there is some impact from the development, given the layout and design of the proposed garage, set back, together with the boundary treatment and the separation distance between the properties, I consider that the proposed garage would not result in a significant loss of privacy to the main habitable rooms and garden at the rear of No. 5, nor dominate the views to cause an overbearing effect and an unacceptable sense of enclosure at the rear of No. 5. I consider the proposal 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.
14. Consequently, I conclude that the proposed development would not result in significant harm to the living conditions of the occupiers of the neighbouring property at No. 5 Dean Road with particular regard to privacy and outlook. 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

15. I have considered the appellant's comments regarding the lack of formal objections from the relevant statutory consultees to the appeal proposal. Whilst this maybe so, this does not preclude the proper planning assessment of the impact of the proposed development on the area and is not a determinative factor on its own.
16. I have noted the issues raised by the appellant regarding the pre-application advice of the Council and the way in which the application was processed by the Council. However, the Council's Planning Committee are not bound by the officer's pre-application advice and the recommendation for approval from the planning officers for the proposal in making their final decision and as such are material considerations to which I can attach only limited weight in making this decision.

Overall Planning Balance and Conclusion

17. 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 (d) 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.
18. I have considered the various benefits put forward by the appellant that the proposal would bring arising from the scheme's design, the additional dwelling contributing to the housing supply in the area, making the effective and efficient use of a small site within an accessible location. 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. 5 Dean Road.
19. However, I have found above that taken overall the proposed development 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.
20. The proposal would not therefore amount to sustainable development in the terms of the Framework. The Framework is a material consideration. However, in the circumstances of this appeal, the other material considerations do not justify making a decision other than in accordance with the development plan.

Overall Conclusion

21. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR