



Appeal Decision

Site visit made on 8 November 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/A2470/W/23/3323343

37 Cold Overton Road, Oakham, Rutland LE15 6NT

- 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 David Semple against the decision of Rutland County Council.
 - The application Ref 2022/1150/FUL, dated 4 October 2022, was refused by notice dated 8 February 2023.
 - The development proposed is described as "2no new bungalows in rear garden of 37 Cold Overton Rd, Oakham, Rutland LE15 6NT."
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Part of the site address postcode is missing from the planning application form. However, I have taken the postcode in the heading above from the appellants' address, which is the same as the appeal site, and that shown on the appeal form and in the description of the proposal.
3. The Council were unable to demonstrate a five year supply of deliverable housing sites at the time they made their decision. However, as part of this appeal, the Council have confirmed that, since May 2023, they can now demonstrate such a supply.
4. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 5 September 2023, replacing the version published on 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the character and appearance of the area,
 - the effect of the proposed development on the living conditions of the occupiers of 35 Cold Overton Road, with particular regard to noise, disturbance and light, and 37 Cold Overton Road, with particular regard to noise and disturbance, and

- the effect of the proposed access and driveway on highway safety.

Reasons

Character and appearance

6. The appeal site lies within a predominately residential area and forms the rear garden serving 37 Cold Overton Road. Despite some variety in building ages and architectural styles, the built form locally is a mix of brick-built, two-storey detached, semi-detached and terrace properties, arranged in a broadly linear layout, with direct street frontages. Properties typically have modest front gardens, with good-sized gardens to the rear, which creates a sense of spaciousness. Due to its design, layout and plot size, No 37 contributes to the character and appearance of the area.
7. The proposal seeks to subdivide the rear garden serving No 37 to allow for the siting of two properties. Having regard to the depth and width of the site, both properties would be sited directly to the rear of No 37. As such, the proposed properties would not have a direct street frontage with the highway, nor would they follow the established linear pattern of development within the area.
8. The subdivision of the appeal site would significantly reduce the plot depth associated with No 37. The siting of the proposed properties within their respective plots would result in very minimal front and rear gardens, with the bulk of their private garden area located to the side of each property. In the context where dwellings sit comfortably within relatively spacious plots, the proposed scheme would appear cramped.
9. Consequently, despite its domestic scale, traditional design and use of appropriate materials, by virtue of its layout, the proposed development would result in an incongruous form of backland development, that would erode the spaciousness of the appeal site, at odds with, and detrimental to, the prevailing pattern and character of the area.
10. As a result of the modest, single storey height, there would only be glimpsed views of the proposed development from the surrounding area. Therefore, it would have a negligible impact upon the wider area and would not dominate such views.
11. For the above reasons, the proposed development would result in unacceptable harm to the character and appearance of the area, contrary to Policy CS19 of the Rutland Local Development Framework Core Strategy Development Plan Document Adopted July 2011 (CS), Policies SP5 and SP15 of the Rutland Local Plan Site Allocations and Policies Development Plan Document Adopted October 2014 (SAP) and Policies 1 and 1 of the Oakham and Barleythorpe Neighbourhood Plan 2018-2036 Made 2022 (NP) and the guidance within the Design Guidelines for Rutland Supplementary Planning Document March 2022 (SPD) and the National Design Guide January 2021 (NDG).
12. Collectively, these seek, among other things, to ensure all new development contributes positively to, and reinforces, local distinctiveness and sense of place, is not detrimental to features and spaces which contribute to the important character of the settlement and locality, is well designed, has been crafted in response to their context and will not have a detrimental impact upon the form, character, appearance and setting of the settlement or neighbourhood. It would also be contrary to the Framework, which requires

high quality development that is sympathetic to local character and the surrounding built environment.

Living conditions

13. The appeal site would be accessed from Cold Overton Road, via a driveway located to the side of No 37. Both No 35 and 37 have frontages with Cold Overton Road, with long private rear gardens to the rear. No 35 and its associated rear garden would be separated from the proposed driveway by No 37 and its rear garden, and both proposed properties. The proposed driveway would run the full depth of, and immediately adjoin, the full side boundary of No 37, including its side elevation.
14. My site visit represents only a snapshot in time and was carried out during a quieter part of the day. There is road noise associated with traffic along Cold Overton Road, although this would be more noticeable to the front of properties and, as such, the rear gardens serving Nos 35 and 37 were relatively peaceful.
15. The occupiers of the two proposed properties would generate and introduce additional vehicular and pedestrian movements to the rear of the site. There would also be additional movements associated with visitors and deliveries to both properties. These movements would be within close proximity to No 37 and run the full depth of its retained plot. The movements associated with the proposed development would give rise to noise and disturbance which would detract from the peaceful rear garden environment that the occupiers of No 37 currently experience.
16. While the use of smooth tarmac and a soundproof wall have been offered, there is limited substantive evidence demonstrating that these would provide sufficient mitigation against the harm identified.
17. By virtue of the location of, and distance from, the proposed new driveway, and the intervening development, there is likely to be no material increase in noise and disturbance for the occupiers of No 35 as a result of the proposed development.
18. No 35 has a very long, relatively narrow, rear garden. The proposed properties would be sited some distance from the rear elevation of No 35, within close proximity of the shared boundary. A hedge is located along this boundary and, although not annotated on the submitted plans, the appellants have confirmed this hedge is to be retained. The proposed properties are of modest height and would be single storey with no rooms in the roofspace. They would not be significantly higher than the boundary hedge.
19. The orientation, siting and height of the proposed properties is such that any overshadowing would only affect a relatively small area of No 35's rear garden, having regard to its substantial depth, for a relatively short period of the day. On this basis, there would be no significant impact on daylight or sunlight reaching the garden or the ability of occupants of No 35 to enjoy the space.
20. For these reasons, notwithstanding my conclusions about the effect on No 35, I conclude the development would have an unacceptable impact on the living conditions of residents of No 37, in respect of noise and disturbance. This would be contrary to CS Policy CS19, SAP Policies SP5 and SP15, NP Policies 1 and 2 and the guidance within the SPD and NDG. Collectively, these seek to

ensure, among other things, that new development protects the amenity of neighbouring uses in respect of noise, light and shading and that no material disturbance will arise from vehicular movements. It would also be contrary to the Framework, which seeks to create places with a high standard of amenity for existing users.

Highway Safety

21. Cold Overton Road is a main road into and out of Oakham. This section of the highway close to No 37 is subject to a 20mph speed limit, with some on-street parking restrictions and traffic calming measures. At the time of my visit, there was a relatively low flow of traffic and, given the measures in place, traffic speeds were also relatively low. However, I appreciate that the road conditions I experienced were only a snapshot in time and traffic is likely to increase at peak times.
22. The proposed driveway would provide vehicular and pedestrian access to both No 37 and the proposed development. Amendments have been made to widen the access, which is close to No 37 and encroaches partially over its frontage.
23. Access and egress into and out of the site would be awkward, particularly for vehicles approaching from a westerly directly, as a result of the access alignment. Drivers entering the site from this direction would likely have to undertake a tight manoeuvre, to ensure vehicles are able to turn effectively into the site. Should drivers fail to make such a manoeuvre successfully, they would be required to make further manoeuvres, which are likely to be within or close to the highway, thereby increasing the risk of conflict with other road users, to the detriment of highway safety.
24. Moreover, having regard to the proximity and alignment of the access in respect of No 37, any occupants of No 37 leaving or entering the property would be within the path of any such vehicles. This arrangement is therefore likely to result in conflict between pedestrians and vehicles, to the detriment of highway safety.
25. While the appellants assert the width of the driveway is compliant, no substantive swept path has been submitted which demonstrates fire engines and delivery vehicles could enter and leave the site in a forward gear. Even if a fully maintained residential sprinkler to both proposed dwellings would be sufficient to overcome the concerns in respect of fire engines, no further information in respect of delivery vehicles has been submitted. I cannot be certain, therefore, that such vehicles could enter and leave the site in a forward gear. It is therefore likely that drivers will either reverse into or out of the site, resulting in vehicle movements within the highway. This would be likely to lead to conflicts between vehicles and pedestrians to the detriment of highway safety.
26. The proposed scheme would provide associated benefits for the appellants through the provision of a facility to leave the site in a forward gear. However, this benefit would attract limited weight which would not outweigh the harm to highway safety that would result from the development.
27. The presence of neighbouring properties that may also have to reverse out of their respective drives has been highlighted. These do not appear directly

comparable given that they appear to serve a single residential property only and, in any case, I have considered the appeal on its own merits.

28. The access serving the nearby medical facility has been drawn to my attention. While I have limited substantive evidence the access to this facility is substandard, this is not directly comparable as it serves a wholly different use and, while the access is narrow, it has a dedicated pedestrian footpath adjacent to it. In any case, I have considered the appeal on its own merits.
29. For these reasons, I conclude that the proposed development would have an unacceptable harmful effect on highway safety, contrary to SAP Policies SP5 and SP15, NP Policies 1 and 2 and the guidance within the SPD and the NDG. Collectively, these seek, among other things, to ensure residential development provides an adequate, safe and convenient access. It also conflicts with the requirements of the Framework, which states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

30. The appellants have raised concerns in respect of the pre-application service. In determining the appeal, I am required to have regard to the planning merits of the development. This is therefore a matter between the appellants and the Council.

Planning Balance

31. While the Council now has a five year supply of housing, even if there was a persistent undersupply of housing and paragraph 11 d) of the Framework was engaged, the proposal would make a modest contribution towards the areas housing supply and support the Government's objective of significantly boosting the supply of homes, in an area which is close to local facilities and transport. The Framework is also supportive of small and medium sized sites, such as this, which can make important contribution to meeting the housing requirement of an area and are often built out relatively quickly.
32. The bungalows would be suitable for the elderly, although there is no mechanism before me to secure them as such. The site would be gated to provide protection from intruders and feelings of safety and wellbeing. The proposal would lead to some social and economic benefits through the construction of the property and the activities of the future residents of the scheme.
33. Biodiversity enhancements could be secured through the imposition of conditions relating to mitigation and ecological enhancement strategy, soft landscaping, tree and hedgerow retention and protection, should the development be otherwise acceptable.
34. The appellants advise the buildings would be insulated to a high standard, include a recyclable rainwater harvesting system and constructed to whole brick and block dimensions to reduce waste.
35. While these benefits weigh in favour of the proposal, given the scale of the proposed development, these benefits are modest. The harm identified in respect of the main issues would, therefore, significantly and demonstrably

outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

36. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR