



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: 10 April 2024

Appeal Ref: APP/F2415/W/23/3314855

Withens, Park Lane, Walton, Leicestershire LE17 5RQ

- 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 Steve Louch against the decision of Harborough District Council.
 - The application Ref is 22/01869/FUL.
 - The development proposed is described as the "erection of a single 1.5 storey bungalow."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. 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 Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach.
3. A tree protection plan has been submitted with the appeal, that did not form part of the original application. This plan does not alter or amend the appeal proposal. The Council has had opportunity to comment on this additional plan through the appeal process, and I do not consider that any other party would be prejudiced by my acceptance of it. I have therefore had regard to this plan in the determination of this appeal.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area,
 - the living conditions of future occupiers, with particular regard to privacy and outlook, and
 - the living conditions of the occupiers of Withens, with particular regard to privacy and outlook.

Reasons

Character and appearance

5. The appeal site is located within the village of Walton. The village has a strong linear character due to the layout of the properties within it, which typically

- have frontages facing the highway, with relatively modest front gardens and larger rear gardens. Withens contributes towards the character of the area, with its frontage facing onto Park Lane, a modest front garden and larger rear garden.
6. Withens is located towards the edge of the village, with open countryside to its side and rear. The proposed development would be located within its rear garden. Although surrounded by trees, which are intended to be retained, the proposed development would, nevertheless, still be partially visible from Park Lane and Mowsley Lane. The proposed layout would result in a form of backland development, with a dwelling that would not have a frontage with the highway.
 7. While the design of the appeal scheme reflects local vernacular, including fenestration and materials, the proposal would, nevertheless, represent unsympathetic development projecting beyond the existing linear built form of the village. Consequently, the proposed layout would be at odds with, and detrimental to, the prevailing character of the area.
 8. Other examples of backland development have been drawn to my attention. While I do not have the details of the planning background for each example before me, one site is a comprehensive form of development in which properties have a frontage with the access road that serves them. The remaining sites lie within the core of the village, some of which are surrounded by other development, in less visually prominent positions. As a result, these sites are not directly comparable. In any case, I must determine this appeal on its own merits.
 9. For these reasons, the proposed development would result in harm to the character and appearance of the area. This would be contrary to Policy GD8 of the Harborough Local Plan 2011 to 2031 Adopted 30 April 2019 (LP) which requires, among other things, development to respect the context and characteristics of the individual site, street scene and the wider local environment to ensure that it is integrated as far as possible into the existing built form.

Living conditions of future occupiers

10. In order to provide adequate outlook and privacy for residents, the Development Management Supplementary Planning Document December 2021 (SPD) advises that in general a minimum distance of 21 metres between facing elevations containing principal windows serving habitable rooms and a minimum distance of 14 metres between a blank elevation and an elevation containing a principal window.
11. The SPD further advises that these standards will be applied flexibly depending on the individual merits of each site. This includes where the room of the affected property benefits from other window(s) providing significant outlook or the window affected is 'secondary' within the room.
12. The rear elevation of Withens contains a number of principal windows, one at first floor and several at ground floor, serving habitable rooms. These windows would face directly towards the proposed dwelling. Subject to suitable design and height, the proposed boundary fence would sufficiently mitigate any overlooking from the ground floor windows within Withens. This could be

controlled via a planning condition were the appeal to be allowed. Therefore, any overlooking of the appeal scheme would occur from the first floor window only.

13. The elevation of the appeal scheme that would face towards Withens is not a blank elevation. It includes two habitable room windows, serving a living room and a bedroom. As such, the guidance in the SPD requires a separation distance of 21 metres, which the proposed layout falls short of.
14. However, the living room would also be served by glazed doors and the bedroom would be served by another window. Therefore, the two windows facing towards Withens are secondary windows. As such, any overlooking from the first floor bedroom window within Withens would not materially affect the living conditions of the future occupiers of the appeal scheme.
15. Moreover, the proposed carport, having regard to its location, depth and width, would sufficiently mitigate against any overlooking from the first floor window within Withens, into the ground floor bedroom of the proposed development.
16. The additional openings within the ground floor living room and bedroom of the appeal scheme would also provide future occupiers with suitable outlook onto the garden of the proposed property. While the separation distance between the properties would be below that stipulated within the SPD, given the dual aspect of these rooms, there would be no material harm in respect of the outlook for future occupiers of the proposed dwelling.
17. The proposed development would not harm the living conditions of future occupiers, with respect to privacy and outlook. This accords with LP Policy GD8 which requires, among other things, development to be designed to minimise the impact on the amenity of future residents.

Living conditions of the occupiers of Withens

18. The elevation of the appeal property that would face directly towards the rear elevation of Withens includes two ground floor habitable room windows, serving a living room and bedroom. Subject to suitable design and height, the proposed boundary fence would sufficiently mitigate any overlooking from these windows. This could be controlled via a planning condition were the appeal to be allowed. As such, there would be no material loss of privacy for the occupiers of Withens.
19. There is one first floor and several ground floor, habitable room windows within the rear elevation of Withens. There is no information which demonstrates that any of these rooms benefit from another window. However, while the separation distance between the appeal scheme and Withens falls below that stipulated by the SPD, the proposed property would be a storey and a half, with a single storey section. It would also have a modest footprint. Having regard to its proposed height, footprint, design and orientation, the proposed development would not have a materially harmful impact upon outlook for the occupiers of Withens.
20. I conclude that the proposed development would not harm the living conditions of the occupiers of Withens, with particular regard to privacy and outlook. This accords with LP Policy GD8 which requires, among other things, development to be designed to minimise the impact on the amenity of existing residents.

Other Matters

21. The appeal site lies outside of, but adjacent to, the Walton Conservation Area (CA), which encompasses almost the whole of the village. The significance of the CA is derived from its rural and agricultural character, which includes several farmsteads or former farmsteads along the village roads, and a series of small greens.
22. In determining this appeal involving development within the setting of a CA, I am required to have special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
23. The proposed development would be located within the residential garden associated with Withens and, as such, it would not erode the rural and agricultural character of the CA. Therefore, notwithstanding the harm I have identified in respect of the character and appearance of the area, the proposed development would preserve the character and the appearance of the CA as a whole. Consequently, the proposed works would not result in harm to the setting of the designated heritage asset or its significance.
24. I understand that there is a need for this type of housing in the village, as demonstrated by the Housing Needs Survey 2019, and the proposed development therefore complies with LP Policy GD4. In addition, a previous planning approval for the reduction in the size of the garage serving Withens allows for a suitable access to the proposed development. Having regard to the modest amount of development proposed, these benefits carry limited weight in favour of the scheme. In addition, the absence of negative feedback from neighbours during the planning consultation process is a neutral matter.
25. The appellant has highlighted changes made to the proposed development, including a reduced footprint, amended orientation and layout to accommodate tree protection zones and an amended roof slope. These changes were in response to pre-application advice from the Council, which included undertaking an arboriculture survey. These amendments are noted but do not change my conclusion that the proposal would be harmful in terms of its effect on the character and appearance of the area.

Conclusion

26. For the above reasons, I conclude that while the appeal scheme would not harm the living conditions of future occupiers, with regard to privacy and outlook, or the living conditions of the occupiers of Withens, with regard to privacy and outlook, the harm I have identified in respect of the character and appearance of the area is determinative. Therefore, the appeal proposal 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