



Appeal Decision

Site visit made on 22 May 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 31st May 2024

Appeal Ref: APP/X2410/W/23/3332152

183, Field View, Ratcliffe road, Sileby, Leicestershire LE12 7PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Major Ken McRae against the decision of Charnwood Borough Council.
 - The application Ref P/23//0984/2 was approved on 18 October 2023 and planning permission was granted subject to conditions.
 - The development permitted is demolition of existing dwelling and erection of a replacement dwelling.
 - The condition in dispute is No 7 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Schedule 2, Part 1, Classes A (apart from Class A. part (k) (ii, iii, iv)) B and E shall take place without planning approval from the Local Planning Authority.
 - The reason given for the condition is: In the interests of neighbour amenity and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements and to accord with Policy CS2 of the Charnwood Local Plan (Core Strategy) and "saved" Policy EV/1 of the Charnwood Local Plan 2004 and Policy DS5 of the Emerging Local Plan.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Major Ken McRae against Charnwood Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. My attention has been drawn to policies of the Pre-Submission Draft of the Charnwood Local Plan 2021-37 (July 2021). However, I have insufficient information to determine the stage of preparation or whether the referenced policies are the subject of any unresolved objections. As such, I afford the policies of the emerging plan limited weight in the determination of this appeal.
4. I have used the original description of development from the original planning permission for the replacement dwelling¹ above in the header as it accurately reflects the development. The description of the current application being appealed simply refers to the removal of condition 11 of the original permission.

¹ Application Reference: P/19/2486/2

Background and Main Issue

5. Planning permission for the replacement dwelling included a condition removing all permitted development rights. Following the appellants application to remove this condition, the Council varied the condition, reinstating some but not all permitted development rights. The Councils delegated report and appeal statement indicates that the condition is necessary to protect the living conditions of neighbouring residents with particular regard to privacy and outlook. The appellant objects to the condition as they consider exceptional circumstances have not been demonstrated to justify the condition.
6. As such, the main issue is whether the condition is reasonable or necessary in the interests of the living conditions of neighbouring residents, with particular regard to privacy and outlook.

Reasons

7. The appeal site comprises a large, detached dormer bungalow in a backland position. It is orientated at 90 degrees to the road fronting properties on Ratcliffe Road with modest side and rear gardens adjoining the neighbouring properties. The bungalow is positioned higher with a raised footpath surrounding the dwelling and the land sloping steeply towards the southwest.
8. Additions, extensions or enlargements and curtilage structures are limited by a number of conditions as set out in Classes A, B and E Town and Country Planning (General Permitted Development) (England) Order 2015. Whilst certain alterations may be acceptable, due to the significant slope of the land and the limited separation distances between the bungalow and the neighbouring properties, it is likely that a number of alterations allowed by permitted development rights would increase overlooking opportunities and result in an overly built form in the context of the plot size, that would appear dominant when viewed from the neighbouring properties.
9. As such, the dwelling, together with permitted development alterations, would conflict with Policy CS2 of the Charnwood Local Plan 2011 to 2028 Core Strategy (November 2015) and Policy EV/1 of the Charnwood Local Plan 1991-2006 Written Statement (January 2004) where they collectively seek to ensure that development protects the amenity of people who live nearby.
10. Accordingly, I find that the disputed condition is reasonable and necessary in the interests of the living conditions of neighbouring residents, with particular regard to privacy and outlook.

Other Matters

11. I note the sites planning history as explained by the appellant, including visits from the council enforcement officer and the Council's complaints procedure. Whilst I understand the appellants frustrations, these matters do not lead me to an alternative conclusion with regard to the main issue.

Conclusion

12. For the reasons given above, the appeal is dismissed.

K Allen

INSPECTOR