

# Appeal Decision

Site visit made on 27 August 2024

**by H Marriott MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 September 2024**

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**Appeal Ref: APP/K2420/W/24/3342429**

**Long Eaves, Pinwall Lane, Pinwall, Leicestershire CV9 3ND**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Nick Smart against the decision of Hinckley and Bosworth Borough Council.
  - The application Ref is 23/00168/FUL.
  - The development proposed is demolition of existing dwelling and outbuildings and the construction of new dwelling with new access.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - the effect of the proposed development on the character and appearance of the area; and
  - the effect of the proposed development on ecology with particular regard to protected species and habitats.

## Reasons

### *Character and appearance*

3. The wider area is characterised by large arable fields with mature verdant boundaries broken up by small pockets of development including various rural farmsteads and isolated dwellings. Pinwall Lane is a narrow route leading away from the crossroads in the centre of Pinwall, a small rural hamlet. As the route transitions away from the crossroads, it is enclosed by hedgerows and mature trees, with glimpses of the fields beyond achievable. Combined with the lack of footway and street lighting this green edge to the route positively contributes to the country-lane character which assimilates into the wider rural setting.
4. Long Eaves is a two-storey chalet style detached brick house with asymmetrical roof and rear conservatory. It is positioned at the end of a curved driveway which is accessed via a break in the hedgerow along Pinwall Lane and is set back from the road in a large verdant plot which is

segregated from the surrounding fields by mature trees and hedges. Its modest scale and the soft landscaping that surrounds Long Eaves means that it is unassuming in the landscape and sits comfortably within the rural character and appearance of the locality.

5. Policy DM14 of the DPD states that a replacement dwelling would be supported where it leads to an enhancement of the immediate setting and general character of the area; and the new dwelling is proportionate to the size, scale, mass and footprint of the original dwelling and situated within the original curtilage.
6. The proposed 5-bay fronted two-storey dwelling has a grand appearance which is not reflective of the more modest farmhouses or local agricultural built vernacular that is typical of the surrounding area. The higher eaves and ridge of the proposed dwelling would result in a more dominant roof form and massing compared to the dwelling it would replace. The proposed triple garage with a home office / gym / granny annexe at first floor level, is a large entity in its own right. Whilst connected by a single storey link, these two parts of the proposed dwelling combined would also create a sprawling footprint. Whilst recognising that whether or not a replacement dwelling is proportionate is a matter of planning judgement, to my mind, the replacement dwelling would be significantly larger and cannot therefore be considered proportionate.
7. Whilst views are somewhat limited from public vantage points, I have no substantive evidence before me to confirm that the appeal proposal would not be more visible from private vantage points including from Anker Hill House which is located on higher ground compared to the appeal site or in winter months when leaf loss may occur. The proposed dwelling would result in a more obtrusive feature in the rural area and would not enhance its immediate setting or be proportionate to the existing dwelling.
8. Furthermore, the proposed access would be located a significant distance away from the existing access, on the other side of the nearest neighbouring dwelling at Cherry Tree Cottage. This would necessitate the significant removal of hedgerow along Pinwall Lane and the route of access track would be positioned beyond the existing hedgerow that appears to define the existing garden area serving Long Eaves. A significant length of the existing hedgerow boundary would require removal. This would create a break in the existing linear hedgerow along Pinwall Lane and would be harmful to the established character of the route. Whilst the appellant asserts that an alternative access is required, I have no substantive technical evidence before me to suggest that this is the only option or that alterations to the existing access would not be possible which would result in less hedgerow loss and encroachment into the open countryside.
9. Whilst replacement hedgerow and additional tree and hedgerow planting is proposed which may provide additional screening of the appeal proposal, this would likely take a significant period of time to establish. I have limited information as to how permitted development rights could be used to enlarge the existing dwelling and how this might appear or how this would compare to the appeal proposal. As a result, this can only carry limited weight.

10. I conclude that the proposal would have a harmful effect on the character and appearance of the area. Conflict would therefore arise with Policies DM4, DM10 and DM14 of the Hinkley and Bosworth Borough Council Local Plan 2006-2026, Site Allocations and Development Management Policies DPD (2016) (DPD) which seek to safeguard the countryside, ensure that development complements or enhances the character of the surrounding area, that replacement dwellings lead to an enhancement of the immediate setting and general character of the area and are proportionate to the size, scale, mass and footprint of the original. Conflict also arises with Policies S1, S8 and S10 of the 2018 to 2036 Sheepy Parish Neighbourhood Plan Review: Made May 2022 (2022) (NP) which require development proposals to be designed so as to respond positively to the character of the area in which it is located and for replacement dwellings to accord with Policy DM14 of the DPD.
11. For the same reasons, the appeal proposal would conflict with the National Planning Policy Framework (the Framework), notably paragraphs 128 d), 135 c) and 180 b), which support development that maintains an area's prevailing character and setting; seeks to ensure that developments are sympathetic to local character; and recognises the intrinsic character and beauty of the countryside.

### *Ecology*

12. The Phase 1 Preliminary Ecological Appraisal (January 2023) (PEA) does not clearly set out the ecological implications of the hedgerow removal required as a result of the proposed access. In relation to great crested newts (GCNs), the Council also suggest that the PEA does not consider ponds located within 500 metres or GCN recordings within 3.5 km of the appeal site. As such, I am not able to ascertain the effects of the hedgerow removal or the status of the site for GCNs including whether any additional mitigation measures or a European Protected Species license would be required for the proposed development.
13. The appellant suggests that the further survey and information specified by the Council have been undertaken and considered but due to an administrative error, have not been submitted. Since I am dismissing the appeal for other reasons, I have not requested a copy of this. Furthermore, it is not possible to secure these requirements via condition since it is necessary to determine the full effect of the appeal proposal on ecology, including protected species upfront. Whilst accounting for the appellant's commitment to new tree and hedgerow planting, biodiversity net gain and expanding and improving the existing pond, I must take a precautionary approach and in the absence of the required surveys I am not satisfied that this would provide an appropriate level of mitigation and compensation should this be required.
14. I conclude that it has not been satisfactorily demonstrated that the proposal would not have a harmful effect on ecology with particular regard to protected species and habitats. In this regard the proposal would be contrary to Policy DM6 of the DPD which requires development proposals to conserve and enhance features of nature conservation. Conflict would also arise with Policy S5 of the NP which seeks new development which impacts on existing

ecological corridors and landscape features to maintain and extend them for reasons of biodiversity. The proposal would also conflict with Paragraph 186 of the Framework which seeks to protect and enhance biodiversity.

### **Other Considerations**

15. My attention has been drawn to other dwellings in the area which the appellant considers the design of the proposed dwelling reflects. Whilst the proposal would reflect some of the design features of Anker Hill House, the main part of the dwelling would be larger than this 3-bay fronted dwelling, which is likely to have evolved and expanded over a considerable period. The Council has confirmed that the residential development to the rear of The Red Lion public house did not relate to a replacement dwelling and was not therefore considered against Policy DM14 of the DPD. As such, this is not therefore directly relevant to the appeal proposal. I do not know the planning circumstances behind the recently constructed developments on the outskirts of Sheepy Magna and Sibson, however they are not located in Pinwall and they do not share the same characteristics of the appeal site. In any event, even if similar dwellings have been approved elsewhere, this does not alter my observations in respect of the site-specific circumstances of the appeal proposal and the current development plan requirements.
16. The proposal would make a neutral contribution to housing supply since the proposal is for a replacement dwelling. A benefit of the proposal would be the generation of employment during construction. However, given that the proposal is for one dwelling, this associated benefit would be limited.
17. The appellant has stated that Long Eaves has come to the end of its natural lifespan and does not provide a sufficient level of accommodation, meet modern living standards or the energy conservation needs of the appellant. The replacement dwelling would be thermally efficient through the use of a biomass boiler and other renewable energy measures. However, there is also no substantive evidence to suggest that refurbishment and extension of the dwelling would not be possible. There is also no reason why similar measures could not be introduced on a replacement dwelling without the harm identified in respect of the main issues that the current proposal would cause. Accordingly, I afford little weight to these matters.

### **Planning Balance**

18. The Council has acknowledged that it is not able to demonstrate a five-year housing land supply. As such, Paragraph 11 d) of the Framework is a relevant consideration.
19. In the particular circumstances of this case, I have concluded that the harm to the character and appearance of the area and ecology would be significant and would conflict with the aforementioned policies of the Framework. The adverse impacts of the proposal would in my view significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As a result, the proposal does not benefit from a presumption in favour of sustainable development and paragraph 11 d) of the Framework indicates that permission should not be granted.

## **Conclusion**

20. The proposal would conflict with the development plan as a whole and the material considerations, including the provisions of the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*H Marriott*

INSPECTOR