



Appeal Decision

Site visit made on 8 October 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal Ref: APP/T2405/W/24/3346946

20 Pougher Close, Sapcote, Leicestershire LE9 4JL

- 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 Cliff Morgan against the decision of Blaby District Council.
 - The application Ref is 24/0436/FUL.
 - The development proposed is a new single detached 1 storey bungalow with dormer/attic room.
-

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 surrounding area;
 - the effect of the proposed development on the living conditions of 20a Pougher Close (No 20a) with regard to privacy, light and outlook, and the living conditions of the occupiers of 20 Pougher Close (No 20) with regard to privacy and outlook; and
 - whether the proposed development could be secured for self-build or custom housebuilding and, if it can be, whether or not it would be necessary to secure mandatory Biodiversity Net Gain (BNG), including consideration as to what this would entail.

Reasons

Character and Appearance

3. The appeal site relates to land that forms part of the rear garden of No 20 which is a two-storey semi-detached property located in a quiet cul-de-sac. Along with other properties on the south side of the cul-de-sac, No 20 backs onto agricultural land at the rear. No 20 benefits from a drive to the front, a detached garage located along the western boundary of the appeal site and a large outbuilding in the rear garden which is used as a home office. The prevailing character of Pougher Close is one of two-storey semi-detached houses with pitched roofs, modest front gardens or drives and generously sized rear gardens. There is a clear building line which follows the straight and curved lines of the road and an established rhythm of built form and spaces between the dwellings with the exception of No 20a which is set back significantly from the road.

4. The proposed dwelling would be set back considerably from the road and sited to the rear and side of No 20. While the rear elevation of the proposed dwelling would align with the rear elevation of No 20a, its garage which is positioned on the front elevation, would project significantly forward of No 20a. The proposed dwelling would therefore neither respect the prevailing building line of the street or that of No 20a.
5. Due to its proximity to No 20a and its position in relation to No 20, the proposed dwelling would appear cramped and contrived in between these two dwellings. It would sit awkwardly within the street scene, incompatible with the general pattern of development in the surrounding area.
6. The proposal would have two steeply pitched dual roofs with front facing gables on the front elevation. The design of the proposed bungalow would be uncharacteristic of those in the street which are largely two storey dwellings with pitched roofs, thereby drawing attention to its incongruity.
7. The design of the bungalow incorporates a garage on its front elevation which would project significantly forward of the eastern section of the bungalow. The siting of the garage would be highly conspicuous in the context of other properties in the street where garages are generally sited to the side or rear of the houses.
8. The proposed dwelling includes a large box dormer on its rear roof slope which would be similar in height to the ridge of the roof. The dormer and balcony would appear disproportionately large in relation to the proposed bungalow. Views of the property would be obtainable from the windows and gardens of neighbouring properties. Within the general uniformity in the character and appearance of the surrounding properties and their rear gardens, the proposal would appear anomalous and obtrusive due to its siting and design.
9. Furthermore, the proposed materials palette of grey render, timber panelling to the rear dormer, glazed balcony and black windows and doors would be atypical of those in the surrounding area, emphasising the discordant effect of the proposal.
10. For the reasons above, I conclude that the proposed development would significantly harm the character and appearance of the surrounding area. Hence, it would conflict with Policy CS2 of the Local Plan (Core Strategy) Development Plan Document (February 2013) (the CS) and Policy DM1 of the Local Plan (Delivery) Development Plan Document (February 2019) (the DDPD) insofar as they require development to respect local character and appearance, take account of local patterns of development and achieve good design. The Officer Report refers to conflict with Policy FV6 of the Fosse Villages Neighbourhood Plan: Referendum 2018-2029 which requires development to be in keeping with the form and character of its surroundings. However, this policy was not cited in the reasons for refusal. Given my finding on this main issue and that this policy largely reflects Policy DM1 of the DDPD, it is not determinative on this matter.

Living Conditions

11. No 20a's main garden is located to the western side of the house away from the proposed dwelling. My site visit confirmed that the garden area to the rear of No 20a is very small and serves mainly as a landscape buffer between No

20a and the agricultural land to the rear. In this respect, overlooking from the balcony into this small garden area would not significantly harm the privacy of the occupiers of No 20a due to their main garden being sited elsewhere.

12. No 20a has an obscurely glazed door and small window on the ground floor. It also has an obscurely glazed window on the first floor of its side elevation. The proposed dwelling would sit along the eastern boundary of the appeal site close to No 20a. As the aforementioned windows do not serve habitable rooms, there would be no detrimental loss of light to or outlook from these openings.
13. No 20a has a window on the ground floor of its front elevation which serves a habitable room. The garage of the proposed dwelling would project forward beyond the front elevation of No 20a. However, given the similar scale and position of the proposed garage to the existing garage of No 20, the proposal would not result in a detrimental loss of light to, or outlook from, the front ground floor window of No 20a.
14. The proposed dwelling would be sited at a distance of approximately 7 metres from the rear elevation of No 20. At this distance, the front facing window of the proposed dwelling which serves a habitable room would be uncomfortably close to the rear facing patio door of No 20 which serves a habitable room, and its garden area. Consequently, the level of privacy would be compromised for the occupiers of No 20 due to the closeness of the two buildings with facing windows at ground floor level and by the proximity of the proposed dwelling to No 20's rear garden.
15. While the outlook from the rear facing windows of No 20 already includes its own outbuildings, the proposal would introduce a substantial block of development that would be considerably larger than the existing outbuildings. The close position of the proposed dwelling in relation to No 20, combined with its scale and bulk, would diminish the outlook from the rear facing windows of No 20 and have an overbearing effect upon it.
16. For the reasons above, I conclude that while the proposed development would not harm the privacy, light or outlook of the occupiers of No 20a, it would unduly harm the living conditions of No 20 with regard to privacy and outlook. The magnitude of harm would be significant in this context. Therefore, it would conflict with Policy CS2 of the CS and Policy DM1 the DDPD insofar as they require development to contribute to a better quality of life and not to be detrimental to the amenity of existing occupiers with regard to privacy, light and overbearance.

Self-Build and Custom Housebuilding

17. The Self-Build and Custom Housebuilding Act 2015 (the Act) requires local planning authorities to establish and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. The Housing and Planning Act of 2016 added a duty on local planning authorities to give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.

18. The Council's evidence shows that in April 2024 there were 102 individuals and one association of two individuals across Base Periods 1 to 7 and part of Base Period 8 on the Council's self-build register. The Officer Report states that the Council has granted outline planning permission for 8 serviced plots for self-build and custom housebuilding and acknowledges a shortfall of plots against demand. The appeal proposal could provide one additional self-build dwelling which would contribute to meeting the demand on the register.
19. However, a site-specific executed planning obligation to secure the proposed dwelling for this specific purpose has not been provided. This would be the appropriate mechanism to ensure the development of the proposed dwelling would meet the legal definition of the Act and that the initial owners of the home would have primary input in its final design and layout. Such a planning obligation is not before me so I cannot be certain that the proposal would provide self-build or custom housebuilding.
20. Under the statutory framework for BNG¹, development must deliver at least 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. There are specific exemptions from BNG for certain types of development. This includes certain self-build and custom build development. Given the absence of a planning obligation to secure the appeal proposal as a self-build house, I am not satisfied that the proposed scheme would be exempt from BNG.
21. The National Planning Practice Guide (PPG) advises that BNG is not just a post-permission matter. The Council indicates that the application was not submitted with the minimum information set out in Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 relating to BNG for a non-exempt development. In the absence of this information before me, I am not satisfied that the biodiversity gain objective would be met, and the biodiversity gain condition could be discharged successfully.
22. For the reasons above, I conclude that the proposed development could not be secured for self-build or custom housebuilding and is therefore not exempt from BNG. Accordingly, it would fail to accord with the statutory framework for BNG and the Framework. The Council has referred to conflict with Policy CS19 of the CS which seeks to protect the important areas of the District's natural environment, landscape and geology. However, this policy is not determinative on this matter.

Other Matters

23. I acknowledge the appellant's concerns with the Council's handling of the case, but in reaching my decision I have been concerned only with the planning merits of the case.

Planning Balance

24. The proposal would cause significant harm to the character and appearance of the area. It would also cause significant harm to the living conditions of the occupiers of No 20 with regard to the loss of privacy and outlook. These harms bring the proposal into conflict with the development plan as a whole. The identified policies from the CS and DDPD are, in the circumstances of this

¹ Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021)

case, consistent with the Framework. Therefore, I give the conflict with these policies significant weight.

25. The Council is not able to demonstrate a five-year supply of deliverable housing sites. Although a detailed figure has not been provided by the Council, paragraph 11(d) of the Framework is engaged. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. The proposal would deliver one additional house which could be built-out relatively quickly and contribute to meeting the housing shortfall. This would support the Government's aim of boosting the supply of homes in accordance with the Framework. The new dwelling would have associated social and economic benefits both during and post construction. However, given the small scale of the development these benefits would be modest and carry moderate weight in favour of the proposal.
27. The proposal is for a self-build home but there is no site-specific planning obligation to secure the dwelling for this specific purpose before me. Therefore, this greatly diminishes the positive weight which I afford to the potential provision of self-build housing.
28. Overall, the adverse impacts of the proposal on the character and appearance of the area and the living conditions of the occupiers of Nos 20 and 20a would significantly and demonstrably outweigh the moderate benefits of the proposal. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

29. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, the appeal should be dismissed.

U P Han

INSPECTOR