



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: 28 October 2024

Appeal Ref: APP/T2405/W/24/3347015

203 Hinckley Road, Leicester Forest East, Leicestershire LE3 3PH

- 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 Pam Basra against the decision of Blaby District Council.
 - The application Ref is 23/0746/FUL.
 - The development proposed is erection of new build 4-bedroom detached house.
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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 surrounding area; and
 - whether the proposed development constitutes over-development of the plot; and
 - the effect of the proposed development on the living conditions of the occupiers of 203 and 205 Hinckley Road (Nos 203 and 205) with regard to light, outlook and privacy.

Reasons

Character and appearance

3. The appeal site relates to 203 Hinckley Road (No 203) and its rear garden. No 203 is a large two-storey detached house which is set back from but faces onto Hinckley Road. The site is accessed from a shared vehicular access off Hinckley Road which serves three existing houses including No 203. The surrounding area is predominantly residential, comprising mainly of large two-storey detached houses and bungalows of various designs.
4. The proposal is for a two-storey detached house which would be sited in the rear garden of No 203, close to its boundary with 205 Hinckley Road (No 205). No 205 is a large two-storey detached house which is currently undergoing alterations and extensions, and also accessed from the shared access. 207 Hinckley Road (No 207) is a detached bungalow at the end of the shared access.

5. Outline planning permission¹ was granted for a dwelling in a similar location on the appeal site as the appeal proposal which has since expired. Since the outline permission was granted, alterations and extensions to No 203 have resulted in a reduction in the width of the gap between No 203 and 205. However, my site visit confirmed that the width of the gap would still allow visibility of the proposed dwelling from the shared access, assisted by the curvature of the road and the siting of the proposed dwelling to the western boundary of the appeal site. Consequently, despite its position behind No 203, the proposal would nevertheless have some street presence.
6. While I acknowledge that properties in the surrounding area generally front the highway, the immediate context of the appeal site includes a small collection of dwellings which do not, and are set back significantly from Hinckley Road, including Nos 205 and 207. Within this context, the proposal would not be incongruous with the pattern of development in its immediate surroundings.
7. The plans show the subdivision of No 203's garden to accommodate a garden area for the proposed dwelling and retain a garden area for No 203. From the evidence before me and my site visit, the size of the garden for the proposed dwelling would be fairly large, and the size of the garden for No 203 would be sufficient, taking into account the garden sizes of properties in the vicinity. Therefore, I am satisfied that the amount of garden space for the proposed dwelling would be adequate and that No 203 would retain a satisfactory amount of garden space. In this respect, the proposal would not be incongruous with the character of the surrounding area.
8. The Council argues that the proposal contains an excess of fenestration with particular reference to the number of rooflights. However, the design of the proposed dwelling is highly similar to that of No 205 which has more rooflights on its front elevation than the proposal's. Given the size of the proposed house, the number of rear rooflights would not appear to be excessive. The Council has also referred to the rear elevation being over-designed with different gables and pitch/ hipped roof elements. The design of the single storey element on the rear elevation would appear slightly cluttered but would not be unduly injurious to the character and appearance of the area due limited visibility of the rear elevation from the street.
9. For the above reasons, I conclude that the proposed development would not harm the character of the surrounding area. Hence, it would comply 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. In addition, it would comply with Policies H2 and H3 of the Leicester Forest East Neighbourhood Plan 2006-2029 (LFENP) insofar as they support development proposals within the Limits to Development area and promote a mix of house types to meet local needs.

¹ 18/1176/OUT

Over-development

10. The Council considers that the two-storey nature of the proposed development would constitute overdevelopment where it has been established that only a single storey dwelling would be acceptable. The Council refers to the aforementioned outline planning permission which included a planning condition restricting the permission to a single storey dwelling only. However, this permission has since expired and there is no substantive evidence before me as to why a two-storey dwelling at the appeal site would not be acceptable. Given that Nos 203 and 205, to either side of the appeal site, are two-storey, and the proliferation of two-storey dwellings in the locality, the proposal would reflect the existing character of the area.
11. The Council indicates that the proposal would result in a cramped plot, atypical of those in the surrounding area. However, from the evidence before me and my site visit, the plot is large and the proposal includes a generous amount of outdoor amenity space.
12. For the reasons above, I conclude that the proposed development would not constitute over-development of the plot. Accordingly, it would comply with Policy C2 of the CS and Policy DM1 of the DDPD which, amongst other matters, require development to be appropriate in its context, take account of local patterns of development and not result in the over-development of a site. It would also comply with Policies H2 and H3 of the LFENP insofar as they support development proposals within the Limits to Development area and promote a mix of house types to meet local needs.

Living Conditions

13. The proposed dwelling would be sited close to the eastern side of No 205. The appellant has undertaken a 45-degree angle assessment from the nearest habitable room to No 205 to demonstrate that the proposal would not breach the 45-degree angle. However, the 45-degree assessment shown on the plan on page 13 of the appellant's statement does not reflect the amended plans upon which the Council made its decision, notably the Existing and Proposed Site Plan.² On this plan, the proposed dwelling is closer to the boundary with No 205 and the angle appears to exceed 45-degrees. Therefore, I am not convinced that the proposal would not breach the 45-degree angle.
14. The proposed dwelling would extend a considerable depth rearward beyond the rear elevation of No 205. Due to its height, bulk and position, the proposed dwelling would have an unacceptable overbearing and enclosing effect on No 205. It would also result in overshadowing and thereby loss of light to the property and its garden area nearest to its rear elevation.
15. The Officer Report refers to the requirement for a separation distance of 22 metres between facing windows to enable an adequate level of privacy. According to the Officer Report, there would be a distance of approximately 21.8 metres between the front facing windows of the proposed dwelling and the large rear facing openings of No 203. While this would not fully meet the Council's required separation distance, the shortfall is marginal, therefore, a reasonable level of privacy would be preserved.

² Drawing Number F-04

16. The Council argues that the effect of a two-storey dwelling would be different to that of a single storey bungalow. However, the Officer Report does not refer to different separation distance requirements for one and two storey buildings. The proposal would largely meet the separation distance required, thereby preserving adequate privacy and preventing overlooking.
17. The Council has expressed concern that the windows on the first floor of the proposed dwelling would overlook the rear garden of No 205. However, due to the further rearward position of the proposed dwelling in relation to No 205, overlooking from the first floor windows into the most private parts of No 205's garden, nearest to the house, would be difficult to achieve.
18. For the reasons above, I conclude that while the proposed development would not affect privacy, it would significantly harm the living conditions of the occupiers of Nos 205 with regard to the loss of light and outlook. Consequently, it would not comply 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 light and overbearance.

Other Matters

19. The appellant has referred to Policy CS1 of the CS which directs development to the Principal Urban Area (PUA) of Leicester. The Council has raised no objection to the principle of housing development at the appeal site. Therefore, this policy is not determinative to this appeal.

Planning Balance

20. The proposal would not harm the character and appearance of the area or represent over-development of the site. However, it would cause significant harm to the living conditions of the occupiers of No 205 with regard to the loss of light 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 case, consistent with the Framework. Therefore, I give the conflict with these policies significant weight.
21. The Council is not able to demonstrate a five-year supply of deliverable housing sites, with 3.69 years supply. Consequently, paragraph 11(d) of the Framework is engaged, and 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.
22. 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. The new dwelling would have associated social and economic benefits both during and post construction. The site is in a settlement boundary and within the PUA. It would be accessible by public transport and would make effective use of land. However, given the small scale of the development, these benefits would be modest and carry moderate weight in favour of the proposal.
23. Compliance with the development plan in relation to environmental factors and vehicular access will weigh neither in favour or against the proposal and is therefore considered neutral.

24. Overall, the adverse impacts of the proposal on the living conditions of the occupiers of No 205 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

25. 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