



Appeal Decision

Site visit made on 31 March 2025

by **L Fern BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2025

Appeal Ref: APP/T2405/W/24/3357399

2 Freeboard Road, Braunstone Town, Leicestershire LE3 2UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr John Matharu against the decision of Blaby District Council.
 - The application Ref is 24/0827/OUT.
 - The development proposed is dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal relates to an outline proposal, with access and layout to be considered at this stage, and with all other matters reserved for future consideration. I have considered the appeal on this basis. Plans were submitted, drawing Ref P001 dated 3 September 2024, which indicate how a dwelling could be accommodated on the appeal site and what its appearance could be. I have taken these plans into full account as far as they relate to access and layout, and I have considered them as indicative only with regards to all other matters.

Main Issues

3. The main issues are:
 - the effect of the proposed dwelling on the character and appearance of the host property and the surrounding area;
 - the effect of the proposed dwelling on the living conditions of the occupants of No 2 and No 4 Freeboard Road (No 2 and No 4 respectively) with regards to outlook; and
 - whether or not the proposal can be considered as self-build and/or custom-build (SBCB housing), and whether or not the proposal therefore accords with Biodiversity Net Gain (BNG) statutory requirements.

Reasons

4. The appeal site is located in a suburban area of Leicester, characterised by a mix of house types, mainly set within generous plots. Traditional semi-detached and detached bungalows are located along Freeboard Road, including No 2, which is detached and located on the corner plot with Woodcote Road. Detached 2-storey dwellings are located on Woodcote Road in the vicinity of the appeal site, including the immediately adjacent dwelling at No 33.

5. The site itself comprises part of the rear garden of No 2, which currently contains a garage, and shares its boundaries with the rear garden of No 4, the side boundary of No 33 and Woodcote Road itself.
6. Demolition of the existing single flat roofed garage and erection of a single dwelling with access onto Woodcote Road is proposed.

Character and Appearance

7. The appeal site comprises an extremely small plot of land that is at odds in terms of scale with most properties in the surrounding area that benefit from larger plots and more generous spacing.
8. Whilst considered indicative in relation to scale, the submitted plans show how a very modest 1-bedroomed dwelling could be accommodated on site, which is likely to represent the smallest possible proposal. It demonstrates that a new dwelling on this plot, regardless of scale, would appear cramped, particularly in the context of its close relationship with the large bungalow at No 2, the detached property at No 33, which has been extended to the side almost onto the shared boundary, and the shared boundary with No 4.
9. Although the layout shows that the building line along Woodcote Road would be maintained, and outdoor amenity space and parking would be provided for both dwellings, the proposed dwelling would nevertheless look cramped on its very limited plot. This would be to the detriment of the character and appearance of the surrounding area, particularly when viewed from neighbouring properties but also to the detriment of the street scene of Woodcote Road, where there would be a particular lack of any space along the boundary with No 33.
10. The first reason for refusal on Blaby District Council's (the Council) official decision notice includes reference to the proposed large dormer window on the front elevation and concludes that it introduces a design feature that is not prevalent in the immediate or wider street scene. Whilst this may be the case, as set out in my preliminary matters section, appearance is not a matter that is before me under this appeal.
11. Overall, I find significant harm to the character and appearance of the host property and the surrounding area, contrary to policy CS2 of the Blaby Local Plan Core Strategy (2013) (BLP CS) and policy DM1 of the Blaby Local Plan Delivery Development Plan Document (2019) (BLP D DPD). These policies seek to ensure that, amongst other matters, new development should be in-keeping with the character and appearance of the area, and respect distinctive local character and patterns of development.

Living Conditions

12. Due to the limited size of the plot and its close proximity to the rear garden of No 4 and the side elevation of No 2, an additional dwelling in this location would have an overbearing impact on the occupants of these neighbouring properties, regardless of the scale and appearance of the property.
13. For the above reasons, I find moderate harm to the living conditions of the occupants of No 2 and No 4, contrary to policy DM1 of the BLP D DPD, which seeks to ensure development proposals, amongst other matters, provide a satisfactory relationship with nearby uses that would not be significantly detrimental

to the amenities enjoyed by existing occupiers, including consideration of overbearing effect.

SBCB Housing and BNG

14. The appellant indicated on the application form that the proposed development would be exempt from the requirements of BNG, as set out at Schedule 7A of The Town and Country Planning Act 1990 (as amended) (the Act), due to being classified as SBCB housing.
15. There is no legal mechanism before me, such as an obligation under section 106 of the Act, to ensure the proposed development is secured as SBCB housing. In the absence of any reassurance, I cannot accept that the proposal is exempt from BNG requirements under this provision. Nor, based on the evidence before me, has it been demonstrated that it would help to address demand for SBCB housing as expressed on the Council's Self-Build Register.
16. The planning application was submitted after BNG became mandatory for minor developments in April 2024 and therefore it should apply in this case. However, there is no evidence before me to indicate how the proposal would comply with the requirement. Since an exemption was claimed, the application did not include the minimum information required by Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Therefore, although the proposed development would be subject to the mandatory BNG condition, if planning permission was granted, based on the evidence before me, it has not been demonstrated whether that condition would be capable of being successfully discharged.
17. For the above reasons, the proposal cannot be considered as SBCB housing and based on the evidence before me, it has not been demonstrated that the proposal would accord with BNG statutory requirements. It would not benefit from the support in policy DM10 of the BLP D DPD for SBCB housing and it would conflict with policy CS19 of the BLP CS, which, amongst other things, includes an expectation that opportunities to build in biodiversity will be included as part of the design of new development.

Other Matters

18. The appellant's Planning Statement and Justification for Appeal document refer to several policies, which appear to be from the "*City of Leicester Local Plan*" and the "*Leicester City Local Development Framework*". The appeal site is located within Blaby District Council's administrative area, and the policies are therefore irrelevant in my deliberation of the issues raised in this appeal.
19. Various design related benefits of the proposal have been forwarded by the appellant, such as the location of windows, height of the dwelling and compliance with the Nationally Described Space Standards. Appearance and scale are not matters that are sought under this outline proposal and I am therefore unable to consider any associated benefits as part of this appeal.

Planning Balance

20. The National Planning Policy Framework (the Framework) does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the BLP CS

and the BLP D DPD, with the associated conflict reflecting harm to the character and appearance of the host property and surrounding area, to the living conditions of the occupants of neighbouring properties, and failure to address the requirements of BNG. For these reasons, the development conflicts with the development plan taken as a whole and should be refused unless other material considerations indicate otherwise.

21. The Council's position, highlighted in the officer's report, is that it can only demonstrate 3.53 years of housing land supply, which is not disputed by the appellant. This is notably less than the 5-year supply required by provisions within the Framework.
22. Paragraph 11 d) of the Framework explains that in these circumstances, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The proposal would make a positive contribution to housing supply in a sustainable location within the Principal Urban Area of Leicester, with associated social and economic benefits during the period of construction and once the dwelling is occupied. However, the scale of the proposal means the contribution of only one dwelling to meeting the housing need and the associated benefits would be limited.
24. Taking account of the circumstances of this case, I have concluded that the detrimental effect on the character and appearance of the host property and the surrounding area, on the living conditions of the occupants of neighbouring properties, and the failure of the proposal to address BNG statutory requirements, conflict with policies in the Framework for securing well-designed places. The adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal does not benefit from the presumption in favour of sustainable development as articulated in paragraph 11 d) of the Framework.

Conclusion

25. The proposal conflicts with the development plan taken as a whole, and material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons above, I conclude that the appeal should be dismissed.

L Fern

INSPECTOR