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## Appeal Decision

Site visit made on 15 July 2025

by **D J Barnes MBA BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 01 August 2025**

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**Appeal Ref: APP/K2420/W/25/3364849**

**Land North of Pipe Lane, Orton-on-the-Hill, Leicestershire**

- 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 Mrs Pauline Taylor against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref is 24/00270/FUL.
  - The development proposed is the erection of one detached dwelling, formation of access from Pipe Lane and associated works.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. It is considered that the main issues are whether (a) the proposed development would preserve or enhance the character or appearance of the Orton-on-the-Hill Conservation Area and (b) the future occupiers would have satisfactory living standards by reason of outlook.

### Reasons

#### *Character and Appearance*

3. The appeal site comprises a grass paddock situated within the settlement of Orton-on-the-Hill and the Orton-on-the-Hill Conservation Area. There is a statutory duty to pay special attention to preserving or enhancing the character or appearance of Conservation Areas. Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (DPD). However, these policies are not fully consistent with the National Planning Policy Framework (the Framework) concerning the assessment of any harm to the heritage significance of the Conservation Area and how such harm should be balanced against public benefits. The approach identified in the Framework is adopted in the determination of this appeal.
4. The *Orton-on-the-Hill Conservation Area Appraisal* identifies the area's heritage significance as primarily deriving from its growth associated with the former Orton Hall and its setting on a ridge surrounded by open countryside. Its character is associated with 2 distinct areas within the settlement including the older part encompassing the church of St Edith, the area around The Green and Pipe Lane.

This sub-area characterised by a relatively unplanned organic pattern of buildings which are separated from each other by distance, green spaces and continuous hedges. The general appearance along Pipe Lane and around the village green reflects the dispersed nature of the farms which previously existed.

5. The *Appraisal* identifies that retaining large green spaces between the groups of buildings is important to the character of the Conservation Area. These green spaces predominantly comprise the curtilages of the residential properties and are recorded as Key Spaces on the *Appraisal's* map. This map does not identify the site as a Key Space but as part of a larger Potential Development Area. The map also identifies views to be protected, including east to west along Pipe Lane in-front of the site and from the road across the middle of the site which has a slope rising from the south to north. Along the boundary with the road, the *Appraisal's* map identifies the western part being an Important Hedgerow and the eastern part for Boundary Improvements.
6. Within the northern part of the Potential Development Area 2 detached dwellings have been erected at the top of the slope. The erection of these dwellings has altered what would have been the more open view which was identified to be protected at the time the *Appraisal* was undertaken. This view does include a horse chestnut tree which is the subject of a Tree Preservation Order (TPO). The protected view along Pipe Lane remains but it appears that the area indicated to be an Important Hedgerow has been replanted at some point because it is no longer a substantial feature in the streetscene.
7. Unlike the Key Spaces to the south of Pipe Lane, the site is substantially enclosed by built development rather than being related the open and verdant countryside which surrounds the settlement. Accordingly, there is a distinct difference in the character of the site when compared to these other Key Spaces.
8. The proposed development includes the erection of a detached 2-storey dwelling which would be sited within the eastern part of the site and adjacent to the boundary with the road. Access to the proposed dwelling and the parking spaces would be at the western end of the site where the hedgerow is not substantial. From the road, the protected view within the site would primarily be across the amenity space and proposed access towards the protected tree rather than be obstructed by the siting of the dwelling.
9. The submitted drawings and illustrative material indicate that there would be the removal of 2 trees located along the site's frontage which would have an effect on the streetscene and their loss would increase the visibility of the proposed dwelling. However, the siting of the proposed dwelling would reflect the relationship of other dwellings to the road, including the properties on the opposite side of Pipe Lane. Within the context of the existing properties sited either side of the road, the view along Pipe Lane would not be materially altered by the proposed development. If the appeal succeeds then a suitable landscaping condition could be imposed to reinforce the vegetation along the site's southern boundary.
10. Policy 13 of the Core Strategy (CS) requires development in rural hamlets to respect the character and appearance of Conservation Areas by incorporating locally distinctive features into the scheme. The simple design of the proposed dwelling, together with its size and the choice of external materials, would complement the character of other properties within the Conservation Area and the

surrounding area. The proposed dwelling would not itself be an incongruous form of development and the vehicular access would reflect the entrances to other residential properties along Pipe Lane and elsewhere within the Conservation Area.

11. To enable the erection of the proposed dwelling and associated parking area there would need to be some excavation of the slope to create suitable platforms. Associated with the excavation works would be a retaining structure comprising sleepers alongside the drive and a retaining wall around the dwelling. Although such retaining structures were not observed elsewhere within the Conservation Area during the site visit, their proposed siting away from the road would not make them so conspicuous so as to be a reason for this appeal to fail.
12. Accordingly, although there would be excavations, because of its siting, architectural style, the location and extent of the amenity space, the retention of a view towards the protected tree and the choice of external materials, the proposed development would have a neutral effect on the character and appearance of the Conservation Area rather than be an incongruous form of development as claimed by the council. For the same reasons, there would be no harm caused to the heritage significance of this designated asset.
13. On this issue it is concluded that the proposed development would preserve the character and appearance of the Orton-on-the-Hill Conservation Area and, as such, it would not conflict with DPD Policies DM10, DM11 and DM12 and CS Policy 13. In addition to heritage considerations, these policies refer to developments complementing the character of the surrounding area with regards to matters such as design and materials.

#### *Living Standards*

14. As identified, the proposed development includes the erection of a retaining wall adjacent to the dwelling. This retaining wall would be set back from the dwelling to create a small patio area accessed via doors from the kitchen/living/dining area. This room would be the main living space for the future occupiers. As claimed by the council, there should be an expectation that future occupiers would have a reasonable outlook from the openings within the main living space. Rooflights would not provide such an outlook because of their height above the floor level.
15. Although there would be an angled view along the access and above the retaining wall towards the protected tree, the primary outlook from the door would be towards the wall. Similarly, the outlook from the main living space's rear window would be towards this wall. The outlook from the proposed side window within this main living space would, by reason of siting, be dominated by the vegetation defining the shared boundary with 4 Pipe Lane. A small window is proposed within the front elevation which would serve the main living space but because of its size it would have a restricted outlook and possess the character of a secondary opening.
16. For these reasons, it is concluded that the proposed development would not provide satisfactory living conditions for the future occupiers by reason of outlook and, as such, it would conflict with the Framework which refers to developments creating a high standard of amenity for existing and future users. DMD Policy DM10 refers to the context for a scheme rather than the living standards for future occupiers associated with the design of a proposal.

### *Other Matters*

17. The council has identified that it cannot demonstrate a 5-year supply of deliverable housing sites and, as such, the presumption in favour of sustainable development set out at paragraph 11(d) of the Framework applies unless criteria (i) and (ii) are engaged. It has been assessed the proposed development would not cause harm to the heritage significance of the Conservation Area and, accordingly, paragraph 11(d)(i) of the Framework does not apply.
18. However, the Framework also requires developments to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. In this case, it has been assessed that the proposed development would not provide satisfactory living conditions for the future occupiers. This represents an adverse impact which would significantly and demonstrably outweigh the limited benefit associated with the provision of a single dwelling. Accordingly, paragraph 11(d)(ii) does apply and the presumption in favour of sustainable development is not engaged.
19. The comments of local residents concerning the impact of the proposed development, including any drainage proposals, on the tree the subject of the TPO have been noted. However, the council did not raise a specific objection based upon its own professional arboricultural advice and there are no cogent reasons to disagree with the council's assessment. Whether there would be the ability to access the proposed greenspace for amenity purposes has been noted but this matter does not alter the main issues which have been identified.
20. Although the proposed development would preserve the character and appearance of the Orton-on-the-Hill Conservation Area, this issue is demonstrably and significantly outweighed by the failure of the appeal scheme to provide satisfactory living conditions for the future occupiers. Accordingly, it is concluded that this appeal should be dismissed.

*D J Barnes*

INSPECTOR