

PLANNING COMMITTEE – 26th March 2013

REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

RE: APPEALS LODGED AND DETERMINED



Hinckley & Bosworth
Borough Council

A Borough to be proud of

Wards affected – Groby, Carlton, Burbage, Hinckley, Barlestone.

1. PURPOSE OF REPORT

To inform Members of appeals lodged and determined since the last report.

2. RECOMMENDATION

That the report be noted.

3. BACKGROUND TO THE REPORT

Appeals Lodged

Appeal by Julie Hogben against refusal to grant permission for the change of use of Flat 2 to accommodate treatment rooms at 1B Newtown Linford Lane, Groby.

Format: Written Representations

Appeal by Mr G Wragg against refusal to grant permission for change of use of land from agricultural to residential curtilage and extension to existing barn conversion at Site at Barn A, Common Farm, Barton Road, Carlton.

Format: Written Representations

Appeals Determined

Appeal by Mrs F Clark against the refusal to grant planning permission for the erection of two dwellings at 66 Church Street, Burbage.

The application was recommended for refusal by the Case Officer and following planning committee, Members refused the application on the following grounds:

1. "In the opinion of the local planning authority the proposed development by virtue of its backland position and lack of suitable access, represents an inappropriate form of development that fails to respect the character of the locality and is to the detriment of the setting of the nearby listed buildings,

and therefore fails to preserve or enhance the character of the Burbage Conservation Area. Accordingly, the proposal is contrary to the requirements of Saved Policies BE1 (criteria a, b and c), BE7 (criteria a and b) and Policy BE5 of the Adopted Hinckley and Bosworth Local Plan and the overarching principles of the National Planning Policy Framework 2012”.

2. “The applicant has failed to demonstrate that an appropriate level of on-site car parking provision would be made. The lack of provision of such facilities could lead to vehicles parking in the public highway which would not be in the best interests of highway safety. The proposals are therefore contrary to Policy BE1 (criterion g) and Policy T5 of the adopted Hinckley and Bosworth Local Plan and the overarching principles of the National Planning Policy Framework 2012”.

The Inspector considered the main issues of the appeal to be;

1. The impact of the development upon the character and appearance of the Burbage Conservation Area.
2. Whether the lack of on-site parking provision and the restricted means of access to the site represented a bar to development.

Character and Appearance

The Inspector raised several points with regards to the site and the character of the surrounding area. The appeal site, previously the garden to No. 66, is a backland location within the Burbage Conservation Area, bounded to the rear and to the north by Listed Buildings, to the west by a block of garages and an open bowling green lies to the south.

Having regard to the Council’s “saved” Policy BE7, the Inspector considered the development against the requirement to ensure development in the Conservation Area preserves and enhances the character and appearance of the Conservation Area, whilst being sympathetic with neighbouring development, including adjacent buildings and open spaces and making a contribution to important features such as open spaces and trees. The site is designated as a key open space within the Burbage Conservation Area Appraisal (2011).

In the view of the Inspector, notwithstanding the careful design and materials to be used, the proposed dwellings would be out of keeping with the existing Listed cottages and the siting fails to relate to any surrounding properties. The Inspector considered that the proposal would result in the undermining of the contribution to the green core of the village and therefore have a harmful affect on the character and appearance of the Burbage Conservation Area, contrary to Policies BE1, BE5 and BE7 and also paragraph 132 of the NPPF.

The NPPF also sets out guidance in relation to inappropriate development of residential gardens where development would harm the local area. The Inspector considered that although the appeal site has been separated from the curtilage of No. 66 for some time, the proposal would not be in accordance with this guidance if allowed.

Parking and Access

The Inspector considered the shared access to the site to be narrow and obstructive and raised concerns over impeding access from construction and machinery vehicles. The Inspector raised concerns over the lack of on-site parking and the limited public transport facilities within Burbage, leading to the demand for additional kerbside parking to meet the minimum one car per dwelling standards set out in section DG14 of the Council's 6C's Design Guide (2007). The Inspector could not agree with the appellant's assertion that future residents were unlikely to own a car.

Having regard to the national policy set out in the NPPF seeking to maximise the use of sustainable transport modes, the Inspector also considers the five relevant criteria to be considered, including accessibility of the site, local car ownership levels and the availability of public transport.

The Inspector considered that Burbage is poorly placed in each of the considering factors with limited access to day-to-day facilities, with a high level of car ownership and a limited level of public transport users. In the view of the Inspector, the demand for parking in Church Street is high arising from the proximity of nearby public facilities and frontage dwellings. The need for kerbside parking would be exacerbated should the proposal go ahead and could well lead to highway safety issues.

The Inspector commented that although the Local Planning Authority have already accepted the Method Statement submitted, that the use of the pedestrian access for plant and machinery vehicles during construction would be unsatisfactory both in terms of restricted width and height and the fact that it is a shared access with other dwellings. The Inspector also considered the matter of possible illumination required during construction and the lack of provision for the storage of refuse containers, both of which would create an unacceptable loss of amenity to the residents of the frontage properties.

The Inspector therefore considered that the lack of on-site parking facilities and the restricted access rendered the development unsatisfactory contrary to "saved" Policies BE1 and T5.

Section 106 Agreement

The Inspector considered that the monetary contribution outlined in the Unilateral Undertaking was satisfactory and was fairly related in scale and kind to the development. However, the point is made that there are fundamental planning objections which the Undertaking would fail to address.

Other Matters

The Inspector acknowledged that there is an unmet local need for one bedroom accommodation, however Policy 4 of the Core Strategy addresses the need and will allocate land for development within Burbage. It is therefore considered that the need is likely to be met within a more sustainable location without the adverse environmental impacts associated with the proposed development.

Conclusion

In the view of the Inspector, the proposed development would have an adverse impact on the character and appearance of the Burbage Conservation Area and failed to demonstrate that the lack of on-site parking provision and restricted means of access did not represent a bar to development.

The appeal was therefore dismissed.

Appeal by Mr S McGrady against the refusal to grant planning permission for a first floor extension to dwelling at 37 The Fairway, Burbage.

The application was originally recommended for approval by the case officer, but was overturned by Members at planning committee and refused for the following reason:

“In the opinion of the Local Planning Authority, the proposal by virtue of its scale, mass and siting would have an overbearing and unacceptable adverse impact on the amenities of the occupiers of no. 39 The Fairway. It is therefore contrary to the requirements of Policy BE1 (criterion i) of the adopted Hinckley and Bosworth Local Plan and the Supplementary Planning Guidance on House Extensions”.

The Inspector considered that the main issue of the appeal was the effect of the proposal on the living conditions within no. 39, with regard to outlook and levels of daylight and sunlight.

The Inspector noted that the existing view from the kitchen window of No. 39 is currently dominated by the 2m tall side boundary wall and the existing 2.8m tall single storey addition to No. 37, upon which the proposal would be sited. The close proximity of the existing structures means that the current view from this window is somewhat restricted

and therefore the question is raised as to the existing living conditions and how these could be impaired.

The proposed extension would be visible from the window of No. 39 and the rear corner of the gable roof would overlap the window slightly; however in the opinion of the Inspector, the shape of the appeal site and the orientation of the extension at a 45 degree angle, would lessen the limited enclosure of the window to an acceptable level. The orientation of No. 39 is due west, resulting in the room receiving sunlight later in the day. The Inspector considered that the degree to which the roof would overlap would not be so great as to lower sunlight levels to have a significantly adverse affect on the living conditions within the dwelling or within the rear garden of No. 39.

Conclusion

In the view of the Inspector the development would result in acceptable living conditions complying with Policy BE1 of the Council's "saved" Local Plan and that undue loss of daylight and sunlight to the breakfast kitchen and garden of No. 39 would not occur in accordance with the Council's SPG on House Extensions.

Planning permission was subsequently granted subject to conditions.

Associated Costs Decision

The applicant applied for an award of costs in relation to the decision to refuse planning permission for the first floor extension to dwelling. The Inspector refused the applicants application for an award of costs as he concluded that the reason for refusal was specific and sufficiently realistic to support the planning committee taking a contrary decision to the recommendation of officers and therefore the Council had not acted unreasonably.

Appeal by Mr Frank Downes against the refusal to grant planning permission for the erection of one dwelling at 36 Bowling Green Road, Hinckley.

The application was originally recommended for approval by the case officer but was overturned by Members following planning committee for the following reason:

"In the opinion of the Local Planning Authority the scale, footprint and siting of the scheme would be harmful to the character of the surrounding area and would result in an overbearing impact, overshadowing and loss of amenity upon the occupiers of No.34 Bowling Green Road, contrary to Saved Policy BE1 (criteria a and i) of the Hinckley and Bosworth Borough Council Local Plan 2001".

The Inspector considered the main issues with the appeal to be;

1. The impact of the proposed new dwelling on the character and appearance of the surrounding area.
2. The effect of the proposal on the living conditions of existing and future residents of 34 Bowling Green Road.

Character and Appearance

In the view of the Inspector, the appeal site is well screened on all sides by brick walls and fences between 1.8m to 2.2m in height, separating it from the adjacent dwellings and the public footpath. The Inspector considered that the varied character and design of the adjacent dwellings, the new residential development to the east of the site and the location of the proposal at the head of College Lane, would not be out of keeping with the character and appearance of the surrounding area in accordance with "saved" Policy BE1 of the Council's Local Plan.

Living Conditions

The Inspector noted that the open aspect from the rear facing windows of No. 34 would be affected by the proposal, but that the detailed design of the new chalet and its siting adjacent to the far end of the garden of No. 34 and away from the common boundary, would render the proposal acceptable. The Inspector considered that there would be some loss of sunlight to the rear portion of the garden; however, rear facing habitable windows were not considered to be affected given the 20m distance between No. 34 and the proposal. The proposed bathroom window at first floor level that faces No. 34 was not considered to impact on privacy subject to obscure glazing, included as a condition.

Conclusion

In the Inspector's view, the proposal was therefore considered to be acceptable in terms of the character and appearance of the surrounding area and was not considered to have an unacceptable impact on the living conditions of existing or future residents of No. 34 Bowling Green Road, in accordance with BE1 of the Council's "saved" Local Plan and the adopted SPG on New Residential Development.

The Inspector subsequently granted permission subject to conditions.

Associated Costs Decision

The applicant applied for an award of costs in relation to the decision to refuse planning permission for the erection of one dwelling. The Inspector refused the applicants application for an award of costs as he concluded that no unreasonable behaviour by the Council resulting in wasted expense was demonstrated by the Appellant.

Appeal by Mr Paul Cerone against the refusal to grant planning permission for extension and alterations to dwelling at 29 Cunneery Close, Barlestone.

The application was originally recommended for approval by the case officer and overturned by Members following planning committee for the following reason:

“In the opinion of the Local Planning Authority the proposal would not respect the character of the area by virtue of its proximity to the side boundary and overall width contrary to Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan and the adopted Supplementary Planning Guidance on House Extensions”.

The Inspector considered the main issue to be the effect of the proposed extension upon the character and appearance of the surrounding area.

In the view of the Inspector, due to its proximity to the common boundary of No. 27, the proposed two storey extension would cause an infill with a gap of less than 1m between the structure and the existing two storey flank of No. 27, creating a terracing effect, contrary to the Council’s Supplementary Planning Guidance and Policy BE1 of the Council’s “saved” Local Plan.

The Inspector noted that there are several terraced houses nearby, but that these were originally built as such. It is considered that although the proposal would be set back by 1.5m, this would be negated by the position of No. 27, which is located behind the front elevation of No. 29 and that the proposal would still be highly visible from the street having an adverse effect upon the character and appearance of the surrounding area.

Other Matters

The Inspector noted that the other extensions referred to in representations were inspected and it was considered that none have resulted in the terracing effect that this proposal would create should it be implemented.

The Inspector also notes that the Planning Officer recommended the scheme for approval subject to conditions, despite recognising the breach in certain requirements of the SPG.

Conclusion

The Inspector subsequently dismissed the appeal on the grounds that the proposal would have an adverse impact on the character and appearance of the surrounding area.

4. FINANCIAL IMPLICATIONS [PE]

None arising directly from this report.

5. LEGAL IMPLICATIONS [MR]

There are no legal implications arising from this report as the report is for noting only.

6. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

7. CONSULTATION

None

8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
None	None	[

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

This report is for information purposes only to draw member's attention to recent appeals lodged with the Authority and appeal decisions issued by the Planning Inspectorate. As this report is not seeking a decision it is envisaged that there are no equality or rural implications arising as a direct result of this report.

10. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

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|---------------------------------|------------------------------|
| - Community Safety implications | None relating to this report |
| - Environmental implications | None relating to this report |
| - ICT implications | None relating to this report |
| - Asset Management implications | None relating to this report |
| - Human Resources implications | None relating to this report |
| - Voluntary Sector | None relating to this report |
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Background papers: Committee Reports and Appeal Decisions:

Appeal decision APP/K2420/A/12/2186335 – 66 Church Street, Burbage

Appeal decision APP/K2420/D/12/2189541 – 37 The Fairway, Burbage

Appeal decision APP/K2420/A/12/2184057 – 36 Bowling Green Road, Hinckley

Appeal decision APP/K2420/D/13/2190230 – 29 Cunnery Close, Barlestone

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