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# Appeal Decision

Site visit made on 14 October 2014

**by Stephenie Hawkins BSocSc(Hons) MPhil MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17 November 2014**

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**Appeal Ref: APP/K2420/A/14/2223516**

**1 Burton Road, Twycross, Atherstone CV9 3PR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R Wright on behalf of PDTR Ltd against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 14/00060/FUL, dated 17 January 2014, was refused by notice dated 5 June 2014.
  - The development proposed is erection of new 3 bedroomed detached dwelling and revised car parking layout to serve existing neighbouring dwellings.
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## Decision

1. The appeal is dismissed.

## Application for Costs

2. An application for costs was made by Mr R Wright on behalf of PDTR Ltd against Hinckley and Bosworth Borough Council. This application will be the subject of a separate Decision.

## Procedural Matters

3. The reason for refusal as set out on the decision notice refers to Policy BE1, but does not refer to the plan in which the policy is contained. However, the Council has provided a copy of the policy which confirms that it is part of the Hinckley and Bosworth Local Plan (LP), adopted February 2001, and as the appellant's statement refers to this I do not consider their interests have been prejudiced by the omission.
4. The appellant suggests that the effect of the proposed development on the character and appearance of the area is not part of the reason for refusal. However, as the reason for refusal states that the development would fail to take opportunities available for improving the character and quality of an area, I do not agree with the appellant. The Council expands upon this concern within their statement and, as the appellant has responded to this within their final comments, I do not consider that their interests have been prejudiced.
5. The reason for refusal refers to a constrained parking layout in terms of manoeuvring between parking areas. However, the Council has not justified this concern in any detail. In addition, the Highway Authority considers the proposal acceptable, subject to conditions. Given this, and that I am

dismissing the appeal for other reasons, I have not treated this matter as an issue, as any conclusion on it would not affect my overall decision.

6. A planning obligation in respect of a financial contribution towards off-site open space has been provided. However, I have not considered this in any detail as it is not a contested issue and, as I am dismissing the appeal for other reasons, my findings on it would not affect my overall decision.

### **Main Issues**

7. In light of the above, the main issues are:
  - the effect of the proposed development on the living conditions of occupiers of nearby dwellings – that is, 6 & 7 Hallfield Close, in terms of light and outlook, and 17 Burton Road, in terms of privacy;
  - whether the proposed development would provide future occupiers with acceptable living conditions, in terms of privacy and noise and disturbance; and
  - the effect of the proposed development on the character and appearance of the area.

### **Reasons**

#### *Living conditions – 6 & 7 Hallfield Close / 17 Burton Road*

8. In broad terms the proposed dwelling would be sited with 5 Burton Road to the northeast, 6 & 7 Hallfield Close to the southwest and 17 Burton Road to the north.
9. I appreciate that the appellant has amended the scheme to overcome concerns about loss of light and outlook for occupiers of 5 Burton Road. However, the proposed dwelling would be built fairly close to the dwellings of 6 & 7 Hallfield Close – at its closest, the appellant calculates the separation distance to be 9m. This would be between a blank side elevation of the proposed two-storey dwelling and the rear elevations of Nos 6 & 7, which comprise bungalows.
10. The New Residential Development Design Guidance Supplementary Planning Guidance (SPG) sets out the separation distances normally required where habitable rooms face blank walls. For houses of two storeys this is 14m, but I consider this could be lowered in this instance, as the first floor of the proposed dwelling would be partially accommodated in the roofspace and the bungalows on Hallfield Close are set on slightly higher ground. However, even taking account of such factors, the scale and massing of the proposed dwelling would be over and above that of a single storey dwelling, but the separation distance achieved would be more than marginally under the 12m required by the SPG for single storey dwellings.
11. I acknowledge that there is landscaping along the boundary that may afford some screening, but this is largely along the boundary with No 6 and it may not be permanent. I also appreciate that the elevation facing Nos 6 & 7 would be fairly narrow. However, the majority of it would be in direct view from No 7. In addition, the proposed dwelling would be angled towards No 7, which would further increase its presence. Consequently I consider the proposed development would materially harm the outlook of occupiers of No 7. However, I do not consider it would materially harm the outlook of occupiers of

No 6 as little of it would be in direct view. In addition, I do not consider it would result in an unacceptable overshadowing of Nos 6 or 7 as the proposed dwelling would be sited to northeast these dwellings.

12. Turning to 17 Burton Road, the rear elevation of the proposed dwelling would face the rear elevation of No 17, which comprises a two-storey dwelling. Whilst it is agreed between the main parties that the separation distance between the dwellings would be 23m, which is 2m short of standard that the aforementioned SPG requires where habitable room windows face each other, I note that the occupier of No 17 states the distance would be 20m, that is 5m short of the standard. However, 20m is not an insignificant distance and the dwellings would be slightly angled away from each other, which the Council considers would prevent direct overlooking of windows. In addition, the garden depth would be reasonable. Taking account of these factors, and that some overlooking between dwellings in built up areas is often inevitable, I do not consider the proposed development would result in an overlooking of the dwelling or garden of No 17 to extent sufficient to form a reason to withhold planning permission.
13. For the reasons given above, I conclude that the proposed dwelling would materially harm the living conditions of occupiers of nearby dwellings, but only in terms of the outlook of occupiers of 7 Hallfield Close. However, as such, it would conflict with Policy BE1 of the LP in that it requires developments to not adversely affect the occupiers of neighbouring properties and to ensure an adequate degree of amenity is provided by the space between buildings. These provisions are consistent with the National Planning Policy Framework (the Framework), a core principle of which is for planning to seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

*Living conditions – future occupiers*

14. Given my findings above in respect of the living conditions of occupiers of 17 Burton Road in terms of privacy, and that the garden depth of No 17 is not dissimilar to that of the proposed dwelling, it follows that future occupiers of the proposed dwelling would be provided with acceptable living conditions in terms of privacy. However, the proposal includes a revised car parking layout to serve existing neighbouring dwellings, which includes the positioning of two spaces for these dwellings directly to the frontage of the proposed dwelling and close to a habitable room window. As such, I consider it could result in an unacceptable level of noise and disturbance for occupiers of the proposed dwelling.
15. For the reasons given above, I conclude that the proposed development would not provide future occupiers with acceptable living conditions, in terms of noise and disturbance. Consequently, it would conflict with Policy BE1 of the LP in that it requires developments to not be adversely affected by activities in the vicinity which are likely to cause a nuisance to the occupiers of the proposed development and, as noted above, requires development to ensure an adequate degree of amenity is provided by the space between buildings. Again these provisions are consistent with the aforementioned core principle of the Framework.

### *Character and appearance*

16. The main parties consider that the area has no definable residential character. Notwithstanding this, both parties state that development in the area is predominantly focused around the linear nature of Burton Road and the Council goes on to state that the development has a strong relationship with the street scene. It is against this characteristic that the Council raise concern about the site's backland position.
17. Whilst linear development may prevail in the vicinity of the appeal site, I saw from my site visit that dwellings are set back from Burton Road immediately to the north of the site. However, I also saw that these form part of a more comprehensive development, with a few dwellings facing out onto an access – that is, they create a street scene. In comparison, the proposed dwelling would comprise a single dwelling, tucked behind a row of dwellings fronting Burton Road and served by a fairly long access flanked on either side by the rear of dwellings. Consequently, whilst development set off from Burton Road may be characteristic of the area, the pattern of this is distinctly different to that of the appeal proposal, which would fail to create a positive street scene and, as such, would be out of keeping with the area.
18. In addition, I concur with the Council that parking would dominate the frontage of the proposed dwelling. Whilst landscaping works could be secured by condition, the layout shows limited space for planting to soften the hard landscaping.
19. For the reasons given above I conclude that the proposed development would materially harm the character and appearance of the area. Consequently, it would conflict with Policy BE1 of the LP in that it requires developments to respect the character of the locality and incorporate landscaping where this would add to quality of the design and siting. These provisions are consistent with the Framework in that it requires good design.

### **Other Matters**

20. I acknowledge that the proposal would be acceptable in some respects, but this in itself does not justify allowing a development that would be contrary to the development plan. Moreover, I appreciate that the proposal would deliver housing within a settlement, together with economic benefits including during construction. However, as the proposal is for one dwelling, such benefits would be small and, as such, would not outweigh the harm I have identified.

### **Conclusion**

21. Whilst the proposal is acceptable in some respects, I have found it unacceptable in respect of living conditions and its effect on the character and appearance of the area. As such, I have found it would be contrary to the development plan. The benefits of the proposal would not outweigh the harm I have identified. Consequently, the appeal should be dismissed.

*Stephenie Hawkins*

INSPECTOR