
Appeal Decision

Site visit made on 3 February 2015

by I Radcliffe BSc(Hons) MCIEH DMS

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

Decision date: 23 February 2015

Appeal Ref: APP/K2420/A/14/2220379

9 Hill Rise, Burbage, Hinckley, Leicestershire LE10 2UA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs K Aucott against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 14/00236/OUT, dated 6 March 2014, was refused by notice dated 6 May 2014.
 - The development proposed is a detached dwelling with vehicular access.
-

Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling with vehicular access at 9 Hill Rise, Burbage, Hinckley, Leicestershire LE10 2UA in accordance with the terms of the application, Ref 14/00236/OUT, dated 6 March 2014, subject to the conditions in the schedule at the end of this decision.

Procedural matter

2. The application was submitted in outline, with access, layout and scale to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area, including its effect upon trees.

Reasons

4. Hill Rise is a residential suburban road whose rear gardens to No 9 and the houses to the south of this dwelling back onto Burbage Road. The appeal site occupies the rear half of the back garden. As a result, the proposed dwelling would be viewed in the context of Burbage Road rather than Hill Rise.
5. Paragraph 53 of the National Planning Policy Framework ('the Framework') states that Councils should consider the case for setting out policies to resist inappropriate development of residential gardens. The Council has not referred to any specific policies of this type. Instead it has relied on policy BE1 of the Hinckley and Bosworth Local Plan. It requires the protection of the character and appearance of a locality through high quality design that respects local

design features. I have assessed the proposed development against this policy which is consistent with the Framework.

6. Housing on the same side of Burbage Road as the appeal site faces the road and terminates by the side of the appeal site. The appeal site is therefore at the point of transition along this road between back gardens and the front of dwellings. As a result, the appeal site in principle could be occupied by a dwelling or remain as a garden and be in keeping with the pattern of development in the area.
7. The houses next to the appeal site along the road are detached dwellings. They are separated by narrow gaps from their side boundaries and are set well back from the road behind gardens with front boundary walls. The appeal site is as wide as some of these housing plots, but not as long. This design of the proposal has had to reflect this. Whilst it would occupy the majority of the width of the site the proposed dwelling would be set in sufficiently from the sides of the plot for it to be in keeping with other houses along the road. The layout of the proposed house would be set close to the side boundary with its neighbouring house on Burbage Road and would initially project 5m forward of its front elevation. Moving across the appeal site away from the neighbouring house it would gradually step further forward towards the road.
8. In views from the road on the approach from the north west, and from the neighbouring house, the staggered design of the dwelling would help reduce its mass and bridge the difference in its building line to that of its neighbours. Given that at its closest point it would still be over 10m from the pavement it would be sufficiently setback to prevent it from being unduly prominent in views from this direction. In terms of views along the road when approaching from the south east, a dense band of vegetation and trees along the highway grass verge separating the pavement from the rear boundary of the houses on Hill Rise creates an effective year round screen. As a result, the proposed dwelling would not be visible until almost directly outside the front of the plot. In relation to its height, the proposed two storey house with a basement below would match its neighbour.
9. The Councils supplementary planning guidance 'New Residential Development' (SPG) recognises that the provision of adequate garden space should be in proportion to the dwelling and the general character of the area. The proposed development would represent a transition between the set back of houses to the north west and the heavy tree screen along the back of the highway verge to the south east. As such, the amount of garden space provided to the front of the dwelling, and ratio of it to hardstanding that would be provided for parking and turning, would complement this change in the character of the streetscene. I therefore find that in terms of its scale and layout the proposed development would be acceptable.
10. The windows shown on the illustrative drawing have a square shape that is at odds with the horizontal emphasis of the building and neighbouring buildings and their fenestration. However, as appearance is a reserved matter the windows and other similar elements of the building's design are within the control of the Council.

Trees

11. A row of trees line the back edge of the highway verge along Burbage Road. They start in front of the appeal site and continue south eastwards along the road. A maple is the first tree in the row and an oak tree is the second. These

tall trees have a good form and it is common ground that they make a positive contribution to the character and appearance of the area. I agree with that assessment.

12. The proposed development would involve removal of the first tree, the maple (T5). Although this tree was assessed as a category B tree in the BS5837 2012 Arboricultural Report the tree was subsequently climbed by the appellant's arboriculturalist. He found rot at the main bow / limb junction. It was his view that the tree would deteriorate over time. As a result, in the Arboricultural Method Statement that accompanied the planning application the tree had been reclassified as a category U tree. Such trees are considered to be in such a condition that they cannot realistically be retained as living trees for longer than 10 years.
13. In assessments of the tree carried out from ground level the tree appears in reasonable condition. However, closer inspection has raised concerns over its longevity. In the absence of an aerial inspection having been carried out by the Council, I therefore place greater weight on the findings of the appellant's arboriculturalist. He has seen the condition of the main bow limb junction and his assessment is that the tree cannot realistically be retained for more than a decade. The tree would be replaced by another maple set further away from the proposed access. In time this tree would provide mitigation for the tree that would be lost.
14. The oak tree (T6) has been classified as a category A tree in recognition of its high quality and good health. The proposed development would encroach into the root protection area (RPA) of this tree, but it would only involve the loss of approximately 7% of the RPA. BS5837 advises that development can occupy up to 20% of the RPA without placing the health and longevity of the tree at risk. The Council's tree consultant's response to the planning application was that the oak tree could be successfully retained in the proposed layout. I therefore find on the basis of the available evidence that the longevity of the oak tree would not be harmed. As a consequence, it would continue to contribute to the character and appearance of the area if the development went ahead.
15. For all of these reasons, I therefore conclude that the proposed development would complement the character and appearance of the area and so would comply with policy BE1 of the Local Plan.

Other matters

Living conditions

16. A private amenity space to the rear of the dwelling would be provided of approximately 30sqm. In conjunction with the front garden along the side of the access this would provide approximately 60sqm of amenity space. This is not a large area of amenity space for a two bedroom dwelling. However, different people seek different sizes of garden. Future occupiers would make an assessment based upon their own needs as to whether the amenity space provided would meet be acceptable. Furthermore, such provision would comply with the Councils supplementary planning guidance 'New Residential Development' (SPG). As a result, satisfactory amenity space would be provided.
17. In terms of the relationship of the proposed house to the dwelling at 9 Hill Rise, there would be sufficient separation for the new dwelling to comply with the

SPG. As a consequence, it would not have a significant adverse impact on the outlook enjoyed by its occupiers.

Housing land supply

18. The Council does not have a 5 year housing land supply. Where such a supply does not exist the Framework states that policies relevant to the supply of housing should not be considered up to date. However, the appeal site is within the settlement of Burbage where residential development in principle is acceptable. As a result, it complies with relevant housing land supply policies. This consideration has not therefore altered my assessment of the appeal.

Highway safety

19. Access with adequate visibility would be provided on to Burbage Road. Sufficient space would be provided for the parking of a car in the garage and a car to the front of the house. Given the location of the appeal site close to the facilities and services in the centre of Hinckley, and with a bus stop outside, it is in a sustainable location for development. Consequently, such parking provision would be adequate and would be unlikely to result in regular on road parking. I therefore find that the proposed access and parking would be acceptable.

Conditions

20. For the avoidance of doubt and in the interests of proper planning, otherwise than as set out in this decision and conditions, the development needs to be carried out in accordance with the approved plans. In order to ensure that the development complements its surroundings further details on materials and landscaping are required. To ensure that any planting becomes well established it needs to be well maintained.
21. In the interests of highway safety, the on site turning and parking space shown on the approved plans needs to be provided. For the same reason, loose chippings should not be used to surface the access within 5m of the highway. The highway verge and pavement in front of the appeal site is wide enough for a vehicle waiting to enter the site not to block the carriageway. So long as any gates across the access site open inwards it is therefore unnecessary for them to be located 5m behind the highway boundary.
22. I have required all these matters by condition, revising the Council's suggested conditions where necessary to better reflect the requirements of Planning Practice Guidance. The submitted plan shows that the access gradient would be 1:16. As a condition has been attached requiring the development to be carried out in accordance with the submitted plans, the final condition suggested by the Council limiting the access gradient is unnecessary.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be allowed.

Ian Radcliffe

Inspector

Schedule

- 1) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 4195/01 Rev A, 4195/02 Rev D, but only in respect of those matters not reserved for later approval.
- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:-
 - a) proposed finished levels or contours;
 - b) means of enclosure;
 - c) hard surfacing materials;
 - d) existing trees and hedgerows to be retained and details of their protection;
 - e) planting plans;
 - f) written specifications and schedules of plants, noting species, plant sizes and proposed numbers / densities where appropriate;
 - g) implementation programme.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to first occupation of the development or in accordance with the programme agreed with the local planning authority. The soft landscaping scheme shall be maintained for a period of 5 years from the date of planting. During this period any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) Any vehicular access gates or barriers that are erected shall not open outwards.
- 9) Before first occupation of the development hereby permitted the access drive shall be surfaced with a hard bound porous material (not loose aggregate) for a distance of 5m behind the highway boundary and shall be retained as such thereafter.

- 10) Before first occupation of the development hereby permitted, space shall have been laid out within the site in accordance with the approved plans for car parking and for vehicles to turn so that they may enter and leave the site in a forward gear. Thereafter this space shall not be used for any other purpose other than the parking and turning of vehicles.