The Planning Inspectorate

Appeal Decision

Site visit made on 18 June 2012

by Karen Baker DipTP MA DipMP MRTPI

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

Decision date: 12 September 2012

Appeal Ref: APP/K2420/A/12/2172312
Land to the rear of 31 and 33 Canning Street, Hinckley, Leicestershire LE10 0AQ

- 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 Richard Wheatley against the decision of Hinckley & Bosworth Borough Council.
- The application Ref. 11/00627/FUL, dated 18 July 2011, was refused by notice dated 26 September 2011.
- The development proposed is 7 dwellings.

Procedural Matters

1. Although the application form gives the site address as 'Mill Hill Road/Canning Street', it is more accurately described on the Council's decision notice. As such, I have referred to this amended address throughout this decision.

2. The local planning authority confirmed after the site visit that it had considered the planning application on the basis of the following plans: Drawing Nos: 008; 009; 050 Rev. C; 051 Rev. C; 052 Rev. C; and, 053 Rev. C. I have, therefore, considered the appeal on this basis.

Decision

3. The appeal is allowed and planning permission is granted for 7 dwellings on land to the rear of 31 and 33 Canning Street, Hinckley, Leicestershire LE10 0AQ in accordance with the terms of the application, Ref. 11/00627/FUL, dated 18 July 2011, and subject to the conditions attached at Appendix A.

Main Issues

4. The main issues in this appeal are:

   a. the effect of the proposed development on the character and appearance of the area, including the Hollycroft Conservation Area;

   b. the effect of the proposed development on the living conditions of the occupiers of Nos. 29 Canning Street and 35 Chessher Street, with particular reference to privacy and outlook, and, whether or not the proposed development would provide satisfactory living conditions for future occupiers of the dwellings on Plots 5-7, with particular reference to privacy and outlook; and,

   c. whether or not the proposal would provide sufficient off street car parking to serve the development.

Reasons

Character and Appearance

5. The appeal site is located within a predominantly residential area. The north western part of the site forms a corner plot which fronts onto Mill Hill Road and Canning Street and is sited within the Hollycroft Conservation Area. The south eastern part of the site is located to the rear of Nos. 29, 31 and 33 Canning Street to the north, to the side and front of Nos. 28 and 35 Chessher Street, to the east and south respectively, and to the north and east of commercial buildings used by Roy Pears Joinery.

6. The proposed development would include the construction of 2 pairs of semidetached 2 storey dwellings, with rooms in the roofspace, on the north western part of the site facing the highway (Plots 1-4) and a block of 3 terraced 2 storey dwellings, with rooms in the roofspace, on the south eastern part of the appeal site, parallel to No. 28 Chessher Street and fronting onto a private drive.

7. The Council is concerned that by virtue of the number of dwellings proposed, their siting and layout would constitute an overdevelopment of the appeal site. The Council's Hollycroft Conservation Area Appraisal, adopted in March 2011, refers to land within the appeal site, at the intersection of Canning Street with Mill Hill Road, as being an important site where any future development should reflect the character of the adjacent conservation area and its planting. The dwellings in the local area have been developed with a mix of densities and layouts. The dwellings to the north of the appeal site are mostly detached and semidetached 2 storey properties at a relatively low density, while the dwellings to the west and south are mostly semidetached 2 storey dwellings of a mid density, with a high density of mostly 2 storey terraced properties, sited to the east. Given this, along with the types of dwellings proposed on the appeal site and their siting, the proposal would provide a transition between the low and mid density developments to the north, west and south, and the higher density properties to the east. Further the design of the dwellings on Plots 1-4, along with their layout and siting, would be in keeping with the character and appearance of the conservation area.

8. The Council is also concerned that the proposed development would lead to the loss of a green oasis. However, the appeal site is not identified in the Hollycroft Conservation Area Action Plan, adopted in March 2011, as a green space. The appeal site is currently predominantly overgrown and unused. I acknowledge that historically there were workshops and associated parking spaces on the land. As such, the appeal site constitutes previously developed land. I note the Council's letter, dated 3 June 2011, to the owner of the appeal site requiring that all overgrown vegetation be removed from the site. Although, once cleared, the appeal site may provide some benefits in terms of visual amenity, I am not satisfied that the development of this area would lead to the loss of a green oasis which would be detrimental to the character and appearance of the area. Indeed, the Conservation Area Appraisal indicates that future development of the appeal site would be acceptable, subject to its design.

9. I conclude, therefore, that the proposed development would not harm the character and appearance of the area and would preserve the character and

appearance of the Hollycroft Conservation Area. As such, it would not be contrary to Policy BE1 of the Hinckley and Bosworth Local Plan[1], adopted in February 2001, and would accord with the Conservation Area Appraisal and the Council's Supplementary Planning Guidance (SPG): Section 1A New Residential Development, approved in April 1996, in this respect.

Living Conditions of Neighbouring and Future Occupiers

10. The dwellings on Plots 5-7 would be sited to the rear and front of No. 29 Canning Street and No. 35 Chessher Street, respectively. The Council considers that the proposed dwellings would appear overbearing and dominant to the occupiers of these neighbouring properties and would lead to overlooking of, and a loss of privacy to, these residents within their homes. In addition, the Council is concerned that the proposal would not provide an appropriate outlook or privacy for future occupiers of the dwellings on Plots 5-7.

11. The Council's SPG states that where a principal window of a habitable room faces a similar window of a neighbouring dwelling, either at the front or at the rear of the dwelling, the Council will negotiate to achieve the distance between them to be a minimum of 25m. It goes on to say that private amenity space of 80sqm should be achieved for 3 bedroom properties and that rear gardens should normally be a minimum of 12.5m in depth.

12. I note that the rear gardens of the proposed dwellings on Plots 5-7 would all be less than the minimum size and depth advised in the Council's SPG and that the distance between the rear elevations of the dwellings on Plots 6 and 7, which would contain rooflights opening into bedrooms, and the rear elevation of No. 29 Canning Street would be around 22m. Nevertheless, given the density, character and layout of the terraced properties along this part of Canning Street and Chessher Street, the separation distances proposed would not be dissimilar to those existing between the rear elevations of these neighbouring properties. Given this, along with the distance proposed and the nature and siting of the fenestration in the roofslope, I am satisfied that the dwellings on Plots 5-7 would not appear unduly overbearing or dominant and would not lead to any material overlooking of, or loss of privacy to, the occupiers of No. 29 Canning Street, and would provide satisfactory living conditions for future occupiers of the proposed dwellings, in these respects.

13. The front elevations of the dwellings on Plots 6 and 7 would be sited around 12m from the front elevation of No. 35 Chessher Street, which is set back from the front elevation of the neighbouring dwelling at No. 33. The front elevation of No. 35 includes a narrow, high level window both at ground floor and first floor levels. The proposed dwellings and No. 35 would be separated by the access drive to serve the former and the existing driveway which serves the latter. Given this, along with the density, character and layout of the terraced properties along Chessher Street, the separation distances proposed would not be dissimilar to those existing between the front elevations of these neighbouring properties. As such, and given the nature of the fenestration at No. 35, I am satisfied that the dwellings on Plots 6-7 would not appear unduly

[1] The Local Plan policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 26 September 2007. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these Local Plan policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.

overbearing or dominant and would not lead to any material overlooking of, or loss of privacy to, the occupiers of No. 35 Chessher Street, and would provide satisfactory living conditions for future occupiers of the proposed dwellings, in these respects.

14. I conclude, therefore, that the proposed development would not harm the living conditions of the occupiers of Nos. 29 Canning Street and 35 Chessher Street, with particular reference to privacy and outlook, and, would provide satisfactory living conditions for future occupiers of the proposed dwellings on Plots 5-7, with particular reference to privacy and outlook. As such, the proposed development would not be contrary to Policy BE1 of the Local Plan, in this respect.

Car Parking

15. The proposed development would include 2 off road car parking spaces for each dwelling. These would be provided by an integral garage and driveway at Plots 1 and 2, a driveway at Plots 3 and 4 and dedicated car parking spaces within a communal car park for Plots 5-7. The Council is concerned that, given the demand for on street car parking in the local area, along with the size of the properties proposed and the inadequate size of the integral garages, the proposed dwellings on Plots 1-4 would lead to an increase in demand for car parking along Canning Street and Mill Hill Road.

16. The Council states that the internal dimensions of garages should be 3m x 6m, in order that they count towards off road parking provision and refers to 'The 6 Cs Design Guide', adopted by Leicestershire County Council in December 2007 and the guidance provided in 'Residential Car Parking Research' published by the Department for Communities and Local Government (DCLG) in May 2007. I note the appellant's statement and submitted drawings which show that the integral garages at Plots 1 and 2 could be constructed to this recommended standard. I acknowledge that other recent developments along Canning Street have been approved with substandard garage dimensions. Nevertheless, this matter could be controlled by a planning condition on any approval.

17. The appellant refers to the DCLG research publication and states that the proposed development would provide car parking in excess of the requirements within this document. Other than yellow lines at the junction, it was apparent from my site visit that there are no parking restrictions, resident permit schemes or other controls over on street parking, which are often indicators of high demand, along this part of Canning Street and Mill Hill Road. Indeed, at the time of my site visit there were on street car parking spaces available along both highways. Although this may differ at other times of the day and over night, there is no substantial evidence before me to show that there are high levels of on street car parking along Canning Street or Mill Hill Road. Given this, along with the provision of 2 off street car parking spaces per dwelling, I am satisfied that there would be sufficient off street car parking provided to serve the proposed development. As such, it would not lead to a material increase in demand for on street parking along Canning Street and Mill Hill Road and consequently would not be detrimental to highway safety.

18. I conclude, therefore, that the proposal would provide sufficient off street car parking to serve the development. As such, it would not be contrary to Local Plan Policies T5 and BE1, in this respect.

19. In addition to the standard time limit condition, the Council has suggested 7 conditions. I have considered these conditions having regard to the advice in Circular 11/95. A condition requiring that samples of the materials to be used on the external surfaces of the dwellings be submitted to and approved by the local planning authority would be reasonable to safeguard the character and appearance of the area. A condition requiring the dwellings to be constructed to Level 3 of the Code for Sustainable Homes would be reasonable in the interests of sustainable development. A condition requiring that the development be carried out in accordance with the approved plans would be necessary for the avoidance of doubt and in the interests of proper planning.

20. A condition requiring the submission and approval of a scheme for the investigation of any potential land contamination on the site, along with details of how any contamination would be dealt with, is necessary to safeguard the living conditions of future occupiers. Conditions requiring the submission and approval of details of the hard and soft landscaping works, along with their implementation, would be necessary to safeguard the character and appearance of the area.

21. It would not be necessary to include a condition requiring that the windows inserted in the south eastern elevation of Plot 7 be obscure glazed, as the submitted plan (Drawing No. 053 Rev. C) shows that there would be no windows inserted in this elevation.

22. I note from the Planning Officer's Report to the Planning Committee that the recommendation referred to the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to provide off site financial contributions towards play and open space. The Officer's Report further states that a Unilateral Undertaking was under negotiation to secure these contributions. However, the Council has not pursued this matter at appeal. Indeed, it did not form a reason for refusal and no Unilateral Undertaking has been submitted by the appellant. As such, I have not considered it further.

23. I have considered all the other matters raised by the Council and interested parties, including the guidance in The Framework; antisocial behaviour from future occupiers of the proposed dwellings; loss of light to neighbouring occupiers; and, increased noise and disturbance to neighbouring residents; but none changes my overall conclusion that the appeal should be allowed.

Karen Baker

INSPECTOR

Appendix A – Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 008; 009; 050 Rev. C; 051 Rev. C; 052 Rev. C; and, 053 Rev. C.

3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.

4) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

   If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

5) 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 proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and, implementation programme.

6) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants which within a period of 5 years from the completion of the development 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.

7) Notwithstanding the details shown on the submitted plans, no development shall take place until details of the internal dimensions of the integral garages on Plots 1 and 2 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

8) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.