The Planning Inspectorate

Appeal Decision

Site visit made on 4 April 2011

by M J Single DipTP, MRTPI

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

Decision date: 20 April 2011

Appeal Ref: APP/K2420/A/11/2144232
8 Mill Lane, Earl Shilton, Leicester, LE9 7AW

- 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 P Rachael against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 10/00693/FUL, dated 31 August 2010, was refused by notice dated 8 December 2010.
- The development proposed is the erection of two flats and associated access.

Decision

1. I dismiss the appeal.

Preliminary Matter

2. The grounds of appeal submit that the proposal comprises a slightly altered scheme to one granted planning permission by the Council under reference 08/00923/FUL. Neither main party provided any details of that scheme in their representations, but did so at my request following my site visit.

Main Issue

3. I consider the main issue in this appeal to be the effect of the proposal on the living conditions of adjoining residents, with particular reference to their outlook and appearance, by reason of the position and mass of the proposed building.

Reasons

4. The appeal site comprises part of the rear garden of no. 8 Mill Lane, the latter retaining 12.7 metres depth of garden. The proposed building, with eaves and ridge heights of nearly 5 and 8 metres respectively, would extend some 9.2 metres across the width of the garden one metre beyond a new boundary fence. Each of these dimensions of the building would be greater than the previously permitted scheme, the most significant to the occupiers of no. 8 being an increase of almost a metre in the eaves height.

5. Policy BE1 of the Hinckley & Bosworth Local Plan 2001 seeks to ensure a high standard of design and sets out several criteria that development is required to meet. One of these is to avoid adverse effect on adjoining occupiers. To

provide advice to applicants the Council has adopted Supplementary Guidance (SPG) on *New Residential Development.* This advises that there should be a minimum of 14 metres between the window of a habitable room and the blank wall of an adjacent dwelling.

6. The difference between the main parties is that the erection of a conservatory behind no. 8 Mill Lane, since the grant of the earlier permission, means that this distance would be reduced to about 11 metres. Consequently, it is submitted by the Council that the increased height, width, overall mass and proximity of the proposal to the boundary between the two properties would adversely affect the outlook of the occupiers of no.8. The appellant, on the other hand, asserts that the conservatory should not be considered as a habitable room and that the separation distance should be taken from the original dwelling. Whilst I note reference to the approach of a different local authority no details have been provided of the specific case and I can only afford this little weight in my decision.

7. I do not, however, find it necessary to come to a definitive view on how the SPG should be applied in this situation. It is not unusual, and generally acceptable in these circumstances, for the gable end of a dwelling to be located at such a separation distance from habitable room windows in an adjoining property. However, the difference with this proposal is that the rear elevation would extend across a substantial proportion of the width of the garden. The combination of increased width and eaves height would mean that it would have a substantially greater mass and presence when seen from no. 8 Mill Lane. It would unacceptably dominate the majority of the outlook from this property, not only from the new conservatory, but from the original dwelling and its garden.

8. I note the appellant proposes some planting within the remaining garden to no. 8 but this would not, in my view, be sufficient to mitigate the overbearing impact of the proposal. My concerns are compounded by the presence of first floor windows in the proposed north elevation that were absent in the previous scheme. Whilst these are shown to be obscure glazed they could still be opened and lead to direct overlooking of the garden to no. 8, adversely affecting the privacy of its occupants. To require them to be fixed lights would be unsatisfactory in a bathroom.

Other Matters

9. The Council has raised further objection that the proposal does not incorporate sustainable design and technology measures. Whilst it has provided a copy of a 2007 draft Supplementary Planning Document on Sustainable Design, and refers to Core Strategy Policy 24, it is not clear from its submissions what is specifically considered to be lacking from the proposal. Consequently I afford little weight to this ground of refusal.

10. I have also considered the representations from residents of Roman Close regarding the proposed access and the implication of the proposal on parking in the close. However, on my visit, I noted the limited number of vehicles parked, and even allowing for the fact that more vehicles would be likely to be parked of an evening or at weekends, I have come to the view that the proposal would not have a significant impact in this regard. Whether the

applicant has a right of access across the adjacent parking spaces in Roman Close is not clear from the submissions but this is a private matter that would need to be resolved between the parties.

Overall Conclusion

11. I conclude that the proposal would have an adverse effect on the living conditions of adjoining residents, with particular reference to their outlook and appearance, by reason of its position and mass. It would conflict with the objectives of Local Plan Policy BE1 and be unacceptable.

Martyn Single

INSPECTOR