Appeal Decision

Site visit made on 6 July 2010

by B Barnett BA MCD MRTPI

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

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Decision date: 12 July 2010

Appeal Ref: APP/K2420/A/10/2119744
23 Cherry Orchard Estate, Higham on the Hill, Nuneaton, CV13 6AF

- 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 T Barton against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 09/00703/FUL, dated 3 September 2009, was refused by notice dated 28 October 2009.
- The development proposed is the erection of a three bedroom house with integral garage.

Application for costs

1. An application for costs was made by Mr T Barton against Hinckley & Bosworth Borough Council. This application is the subject of a separate decision.

Decision

2. I allow the appeal, and grant planning permission for the erection of a three bedroom house with integral garage at 23 Cherry Orchard Estate, Higham on the Hill, Nuneaton, CV13 6AF in accordance with the terms of the application, Ref 09/00703/FUL, dated 3 September 2009 subject to the following 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: BAR001, BAR002 Revision F, BAR004, BAR005 Revision F, BAR006 and BAR007.

   3) No development shall take place until details 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.

   4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the eastern elevation of the building and the window to the south facing bedroom shall be glazed with obscure glass (to a minimum of level 3 obscurity), shall not be openable below 1800mm above floor level and shall be retained permanently in this form.

5) The access and parking areas shall be provided and surfaced as shown on the submitted plans before the house hereby approved is first occupied.

6) The new fencing shown on the submitted plans shall be provided before the house hereby approved is first occupied.

Reasons

3. The site is within the settlement boundary and, in principle, its development is consistent with Policy RES5 of the Hinckley and Bosworth Local Plan. The size and design of the proposed house are in keeping with those of the surrounding dwellings. It would be set well back, and not prominent in views from the road and it would not harm the streetscene or the character and appearance of the wider area. The main issue is the effect of the development on the living conditions of neighbours having regard in particular to noise, disturbance, and privacy.

4. The Council is concerned about increased noise and disturbance affecting those in the adjacent houses arising from use of the shared access by three properties. The side windows at No 23 would be at right angles to the access and screened by a panel fence from the parking area for the new house. This would reduce the impact of noise generated by movement to and from the new house. The side windows at No22 would be closer to, and would face directly onto the access. However, here a panel fence would provide some protection for what appear to be side facing kitchen windows and the first floor windows do not appear to serve habitable rooms.

5. The effect on neighbours of activity on the proposed access would be little different from what often arises where two adjacent houses share an access. It would not significantly impair the neighbours' living conditions. A hard-surfaced area in front of and between the existing properties is already in use for access and parking and, as some of the activity there would be displaced to the rear, the development would lead to a reduction in noise and disturbance affecting the main windows at the front of the houses.

6. The appellant has drawn my attention to two sites elsewhere where the Council has permitted development reliant on shared accesses and I have visited these. They are not identical to the appeal site as the gaps are wider. However, in each case more than one new house is involved and the traffic generated would have an effect on living conditions within one of the adjacent houses which, in my view, would be similar to that which would arise from the proposal before me. I have assessed this development on its merits, but the fact that the Council has permitted these two other developments reinforces my view that any noise and disturbance created on the access now proposed would be limited and acceptable.

7. Existing or proposed screen fences would prevent overlooking of neighbouring properties from ground floor windows in the proposed house and at first floor level only a small toilet window in the gable would face east. It would be possible to see into gardens to the west, north and east from bedroom windows at the rear of the house but, because of the distances and angles involved, the effect on neighbours' privacy would be limited and acceptable. In coming to this view, I have had regard to the Council's Design Guidance on Residential Development. However, the figures it gives for spacing between

buildings are for guidance only and need to be considered in the context of individual site conditions.

8. I am more concerned about a bedroom window at the front. This would not significantly affect properties to the east but it would potentially overlook the rear garden of No 22. However, the plans indicate that it would not open at low level and would have obscure glazing. Provided this is done, and retained permanently, the development would not significantly affect the privacy of neighbouring properties.

9. I have considered all the other matters raised, including the effect of the development on the neighbours' outlook and on the light reaching their gardens and the impact within the highway of additional traffic movements and parking. I have also had regard to comments from the parties on the recent revision to Planning Policy Statement 3 *Housing*. None of these matters alters my conclusion that the development would have an acceptable effect on the living condition of neighbours and would be consistent with Policies RES5 and BE1 of the Hinckley and Bosworth Local Plan.

10. I have imposed conditions in relation to windows, fencing, and access and parking arrangements to protect the living conditions of neighbours and, for the avoidance of doubt and in the interests of proper planning, a condition also requires that the development be carried out in accordance with the plans before the Council when the application was determined. I see no need for the other conditions suggested by the Council or to restrict the form of the east facing toilet window.

B Barnett

INSPECTOR


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