Item: **08**

Reference: **11/00159/FUL**

Applicant: **Mr & Mrs Ian Sands**

Location: **Land R/o 1 Thurlaston Lane Earl Shilton**

Proposal: **ERECTION OF ONE NEW DWELLING**

Target Date: **4 May 2011**

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation as objections have been received from more than five addresses.

Proposal

This application proposes the erection of a detached 3 bed dwelling on the rear garden of No.1 Thurlaston Lane. The scheme involves the demolition of a single detached garage currently situated on the plot.

The dwelling proposed comprises a 7 m high pitched roofed, part brick part rendered elevations with a pitched roofed canopy porch to the front door. The proposal is of simple design with brick coins and low level brickwork to the principal elevation and simple fenestration arrangement. To the rear is a pitched roofed gable which projects 3 m from the property and spans half its width. The property is set back 5 m from the service road to the front and proposes two off road parking spaces. An enclosed garden is proposed to the rear, having a depth of 12 m and an area of 80 square metres. There are windows in all elevations but the south west.

The existing dwelling has a footprint of 132 square metres and comprises a hipped roofed brick property. There is a driveway adjacent to the north eastern boundary leading to a detached flat roofed single garage and a large detached outbuilding situated in the south western corner of the site.

Site and Surrounding Area

The plot comprises part of the rear garden of No.1 Thurlaston Lane. It is accessed via a service road leading from King Richards Hill which gives rear access to the properties on Thurlaston Lane. The site slopes to the north. No.1 Thurlaston Lane, the host property, comprises a semi-detached, extended dwelling situated on a long narrow plot on a uniform building line, set back from the highway by 12 m. Through the proposed sub-division of the plot the host property will have a site area of 83.75 square metres and a rear garden depth of 8 m.

To the east of the application site is a modern detached dwelling fronting the service road but built adjacent to King Richards Hill. On the opposite side of the access road are two further detached brick dwellings of simple design. The gardens of adjacent properties are long and narrow and well screened from the access road by mature vegetation and detached single garages which are accessed via the service road.

The area is well landscaped and there are a number of mature trees within the vicinity of the site. Further south of the site are the properties on Bosworth Green, however these are completely screened from the site by mature, dense conifer hedging.

There is no definable architectural character within the immediate vicinity of the site.

Technical Documents

The application is accompanied by a design and access statement that is supportive of the design stating that the proposal is well informed by the existing built form and has been carefully designed, such that it will not detrimentally affect the amenities of neighbouring properties nor compromise highway safety. It is concluded that the proposal represents an integrated, sustainable and sensitive residential development that is appropriate within the local context.

History:-

None relevant.



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Consultations:-

No objection has been received from Head of Community Services (Pollution).

No objection subject to a note to applicant has been received from Head of Community Services (Drainage).

The Director of Environment and Transport (Highways) has issued Standing Advice.
Earl Shilton Town Council object to the application on the grounds that the service road is insufficient to cater for residential development and that they are concerned that adjacent properties will want to develop their gardens in the same way.

Four letters of neighbour objection have been received these raise the following concerns:-

a) harm to the character of the area
b) inadequate access and parking
c) noise and disturbance
d) overshadowing and overbearing impact
e) increase traffic
f) insufficient parking
g) set a precedent for further development of adjacent plots
h) loss of privacy/view
i) inadequate drainage.

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' refers to the delivery of sustainable development through the planning system. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives.

Paragraph 12 states that good design is fundamental to the development of high quality new housing.

Paragraph 13 reflecting policy in PPS1, states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to improve the character and quality of an area and the way it functions, should not be accepted.

Paragraph 16 lists matters to be considered when assessing design quality; this includes assessing the extent to which the proposed development is well integrated with and compliments the neighbouring buildings and the local area more generally in terms of scale, density layout and access.

Paragraph 41 states that at least 60 per cent of new housing should be provided on previously developed land and that a key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed.

Paragraph 48 states that Local Planning Authorities should facilitate good design by identifying the distinctive features that define the character of a particular local area.

Paragraph 49 states that careful attention to design is particularly important where the chosen local strategy involves intensification of the existing urban fabric. More intensive development is not always appropriate.

Paragraph 71 states that where the LPA cannot demonstrate an up-to-date five year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in PPS3 and considerations in paragraph 69. Paragraph 69 requires the LPA to ensure that the proposed development is in line with planning for housing objectives, reflects the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives. In addition, development should provide high quality housing of a good mix and make effective and efficient use of land.

PPS3 was updated in June 2010 to specifically refer to garden land not being Brownfield land and Paragraph 47 has been amended and 30 dwellings per hectare is no longer a national indicative minimum density in order to allow local planning authorities to develop their own range of policies whilst having regard to the continued need to develop land in the most efficient manner.

Planning Policy Guidance Note 13 (PPG13): 'Transport' sets out national transport planning policy. Paragraph 6 states that Local Planning Authorities should accommodate housing principally within urban areas and promotes accessibility to services by public transport, walking and cycling and reduces the need to travel. Paragraph 29 states that when thinking about new development the needs and safety of the community should be considered and addressed in accompanying Transport Assessments.

The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122 provides a statutory duty in respect of planning obligations and requires them to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. The Regulation does not replace Circular 05/2005 but gives it a statutory foothold in planning legislation.

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and should be given significant weight in decision making and developer contributions.

Regional Policy

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010.

Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies.

The Government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS`s letter of 27 May 2010 and that it should still be regarded as a material consideration.

Judgement was recently given in a second challenge by Cala Homes when the Court held that the SoS`s intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration.

In relation to the weight to be given to that intention as a material consideration the Court held that `the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands. The following relevant policies apply to this proposal:-

Policy 2 promotes better design including highway and parking design that improves community safety.

Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land.

Policy 43 seeks to improve highway safety across the region and reduce congestion.

Local Development Framework Core Strategy 2009

Policy 2: 'Development in Earl Shilton' amongst other things, requires new development to respect the character and appearance of the area and ensure new development is of the highest environmental standard.

Policy 24: 'Sustainable Design and Technology' expects residential developments in Hinckley to meet a minimum of Code level 3 of the Code for Sustainable Homes.

Hinckley and Bosworth Local Plan 2001

Policy IMP1: 'Contributions towards the Provision of Infrastructure and Facilities' requires contributions towards the provision of infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

Policy REC3: ' New Residential Development - Outdoor Play Space for Children' requires the appropriate level of children's play space to be provided within development sites. Alternatively, a financial contribution can be negotiated towards the provision and maintenance of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities within the area.

Policy RES5: 'Residential Proposals on Unallocated Sites' states that on sites not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal do not conflict with the relevant plan policies.

Policy BE1: 'Design and Siting of Development' seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy T5: 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking targets for new developments. Leicestershire County Council's document 'Highways, Transportation and Development' provides further highway design guidance and parking targets.

Policy NE2: ‘Pollution’ states that planning permission will not be granted for development which would be likely to cause material harm through pollution of the air or soil or suffer material harm from either existing or

Policy NE14: ‘Protection of Surface Waters and Groundwater Quality’ protects the water environment. potential sources of air and soil pollution.

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: ‘New Residential Development’ provides a series of standards that new residential development should achieve in respect of design, layout, impact on neighbours and amenity space. It specifically states that the appropriate density of the development will be determined by the general character of the surrounding area.

Supplementary Planning Document: ‘Sustainable Design’ seeks to ensure that new developments are designed in such a way to achieve the highest levels in terms of sustainability and suggests various ways in which to do so.

Appraisal:-

The main considerations in the determination of this application are the principle of development, impact on the character of the area; design, residential amenity, highway issues and other matters.

The Principle of Development

The site is within the settlement boundary of Earl Shilton therefore Local Plan Policy RES5 states that residential development is acceptable subject to siting, design, layout and providing it is in accordance with other plan policies. However, Planning Policy Statement 3 (PPS3) has recently been revised to remove residential gardens and curtilage from the definition of brownfield land. Ministerial advice provides clarification on this change, stating that this is to primarily prevent overdevelopment within residential areas that is out of character.

The character of the surrounding area is one of predominantly detached and semi-detached dwellings, situated on relatively large plots with road frontages. The proposed site comprises part of the rear garden of number 1 Thurlaston Lane and thus is considered Greenfield development. Although the site has frontage to the service road which runs adjacent to the rear gardens of properties on Thurlaston Lane, there is no frontage to any adopted public highway and therefore fails to reflect the local pattern and layout of development.

Furthermore, through the subdivision of the site, neither the host property nor the proposed will have sufficient rear amenity space and the small plots proposed are uncharacteristic of the surrounding area. Accordingly the sub division of the host plot will result in two smaller plots which would result in an un-characteristic overdevelopment of the site which would fail to reflect the pattern of development and therefore the character of the surrounding area and is therefore contrary to advice within Local Plan Policy BE1 and the intentions of PPS3 and is unacceptable in principal.

Layout and Design

Local Plan Policy BE1 seeks a high standard of design to safeguard and enhance the existing environment through a criteria based policy. These criteria include ensuring the development 'complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, design, materials and architectural features'. This consideration ties in with the intentions of PPS3 and RES5 for local authorities to prevent overdevelopment and development that is out of keeping with the character of the surrounding area.

The scale, massing and bulk of the proposed dwelling is modest, resultant of its height of only 7m and its footprint of 45 square metres, and due to its set back from the access road. By virtue of its siting further back than the adjacent property to the east, the dwelling will appear inconspicuous within the wider street scene and will be screened from King Richards Hill.

The sub-division of the host plot (1 Thurlaston Lane) results in two smaller plots; the application site will have an area of 175 square metres and the host property an area of 210 square metres. In respect of rear amenity space, the SPG on New Residential Development states that three bed properties should have an area of 80 square metres and a depth of 12.5 m to ensure sufficient separation distance between facing properties and to ensure adequate usable amenity space. In this case the proposed property will have an area of 80 square meters, but will only have a depth of 10m and the host property will be left with a rear garden area of approximately 56 square metres and a depth of 8 m. Accordingly, due to this, the proposal is considered to result in over development of the site and will provide inadequate amenity space to the detriment of occupiers of both properties in question.

Although there will be frontage parking, which is not generally encouraged due to the visual impact it results in, this is characteristic of the adjacent property to the east and in the wider locality and will not form part of any established street scene due to the backland nature of the plot, thus on balance is not considered detrimental to the visual amenity of the area and to warrant refusal of the application.

The front elevation of the dwelling has a balanced appearance with the fenestration being aligned and of a simple, standard design. The pitched roofed canopy porch and the brick detail adds interest to the front elevation and emphasises the front door. The side elevations have large expanses of brickwork resulting in a bland appearance, however to the east the side elevation will be screened from King Richards Hill by the adjacent property to the east, and as the service road is a dead end, only its users will view the western elevation of the proposal, accordingly the level of harm caused to visual amenity is very minimal. To the rear the design proposed is bland and there is limited architectural detail. This said, this is typical of rear elevations of residential properties in the locality and given that there will only be slight views of this elevation from King Richards Hill, in this respect the scheme is considered acceptable.

Residential Amenity

In order to protect the amenities of surrounding properties, in terms of overlooking and privacy the SPG on House Extensions states that there should be 25 m between facing elevations containing principal windows and a greater distance where there is a change in ground level. These standards are applied as they are relevant to the issues that arise in new dwelling house proposals.

In this case the proposed dwelling is elevated from the host property due to the rising ground level to the south. The rear elevation of the gable will be a distance of approximately 21 m from the rear elevation of the host property and the principal rear elevation a distance of approximately 23 m from the rear, with both elevations containing first floor bedroom windows. Accordingly the separation distances do not comply with those recommended within the SPG.

The first floor bedroom windows within the rear elevation of the proposal will have direct views into the rear garden of the host property and rear windows of the host dwelling, with the impacts on the privacy of the occupiers of this property compounded by the elevated position of the proposed dwelling in relation to the host property, the lack of any natural screening and the close proximity of the garden of the host property by virtue of its inadequate depth.

In respect of the first floor side facing bedroom window, although this is a secondary bedroom window, it will only be a distance of 7m from the principal rear amenity space of the adjacent property and thus is considered to cause an unacceptable level of overlooking.

As the proposed property is situated to the west of the adjacent property, there will be the possibility for some loss of light and overshadowing to the rear of the property during the afternoon, particularly to the conservatory attached to the rear elevation. By virtue of the proposed dwelling being set back further than the adjacent dwelling, there will be a significant two storey mass to the west of the rear elevation which would result in overbearing and overshadowing impacts to this property, to the detriment of the adjacent occupiers.

Accordingly, the proposal is considered to have an unacceptable impact in terms of overlooking, overshadowing and on the privacy of surrounding residential properties and is thus contrary to the intentions of Policy BE1 and the SPG on New Residential Development.

Highway Issues - Parking

The scheme proposes to provide two car parking spaces to the front of the site which is considered sufficient for a three bedroomed dwelling. Standing Advice has been issued by the Director of Environment and Transport (Highways) with a further note stating that the parking spaces should be 5m in length.

Other issues

Policy 24 of the Core Strategy requires new residential developments in Earl Shilton to be constructed to Code Level 3 of the Code for Sustainable Homes. No information has been supplied with the application that demonstrates that this has been considered or can be achieved and therefore fails to satisfy the requirements of Policy 24 of the Core Strategy.

Developer Contributions

The general approach to developer contributions must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL). CIL confirms that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed. In such cases, and where the

development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area supported.

The site is located within 400 m of The Hall Field recreational ground and therefore the proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policy REC3 supported by the Play and Open Space SPD.

Within the Green Space Strategy 2005-2010, Earl Shilton was found to have inadequate provision for children and young people and the quality of existing space is considered poor. The quality of the space was considered within the Quality and Accessibility Audit of 2005 which awarded the Hall Field a score of 46.7% suggesting that additional works are required to improve the quality of the space. The document makes recommendations to what works are required to improve the quality and provides a cost. With regard to the provision for children and young people, these include improving the quality and provision and improving the quality of the green space.

Given the low quality score it is considered a contribution is justified in this instance.

The Play and Open Space SPD sets out how the contribution is worked out in proportion to the size and scale of the development. In this instance a contribution of £1,250.80 is required with £817.80 towards the provision of equipment and facilities, and £433.00 towards maintenance on a 10 year period.

There is no commitment submitted with the application that such a contribution will be offered and as such the proposal is contrary to the requirements of Policies IMP1 and REC3 of the Adopted Local Plan and the SPG on Play and Open Space.

Loss of View

A letter of objection has been received from a neighbouring property raising concerns that the proposal will result in a loss of view. Regardless of whether or not this will be the case, loss of a view is not a material planning consideration and therefore can not be taken into consideration during the decision making process.

Drainage

Concerns have also been raised by neighbouring properties that the proposal will exacerbate existing drainage issues within the vicinity of the site.

The Head of Community Services (Land Drainage) raise no objection to the proposal but has asked for a condition in respect of drainage details to be submitted. Historically the development control process has sought to control the design of drainage systems, however in more recent years further control is now delivered through the Building Regulations and by Severn Trent Water (as the service provider) and the drainage scheme that has been approved by the planning authority is usually subject to change. In line with recent appeal decisions and Planning Inspector opinion, it has been agreed locally that drainage details will no longer be required to be subject to a planning condition unless there is uncertainty over network capacity or connection availability. Accordingly, in this case no drainage conditions are considered necessary.

Conclusion

By virtue of the subdivision of the host plot and the lack of a conventional road frontage, the two resultant plots are not considered to reflect the size of surrounding plots and the existing pattern of development in the locality. The rear amenity space of both the proposed property and the host property is considered inadequate and does not comply with the standards outlined within the SPG in terms of minimum requirements that developments should achieve. The proximity of the windows within the rear elevations of both the proposal and the host dwelling are considered too close, resulting in an unacceptable impact on the privacy of occupiers, to the detriment of their residential amenity and by virtue of the proposed dwelling being set back further than the adjacent dwelling, there will be a significant two storey mass to the west of the rear elevation of the adjacent property, resulting in overshadowing and overbearing impacts to the detriment of the occupiers of this property.

Accordingly the scheme is considered to constitute overdevelopment of this small site and will result in a contrived form of development which is uncharacteristic of the locality and contrary to the intentions of PPS3, Policy BE1 of the adopted Local Plan and the adopted SPG on New Residential Development. Therefore, on balance the proposal is considered unacceptable.

RECOMMENDATION :- REFUSE, for the following reasons :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Reasons:-

1 In the opinion of the Local Planning Authority, the proposal constitutes an uncharacteristic form of development of this greenfield residential garden site. By virtue of its position, layout and scale, the proposal fails to respect the established character of the surrounding area and would therefore not complement or enhance the surrounding area. Therefore the development would be contrary to Planning Policy Statement 3: Housing and Policies BE1 and RES5 of the adopted Hinckley and Bosworth Local Plan, the Council's Supplementary Planning Guidance on New Residential Development.

2 In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the proposed development would be built to Code Level 3 of the Code for Sustainable Homes, and is therefore contrary to requirements of Policy 24 of the Adopted Hinckley and Bosworth Local Development Framework Core Strategy (2009).

3 In the opinion of the Local Planning Authority, the lack of any definitive measures to address the increase in pressure placed on the play and open space facilities of the local area by the proposed development would not accord with Government Guidance Circular 5/05, Policies REC3 and IMP1 of the adopted Hinckley and Bosworth Local Plan, and the Supplementary Planning Document on Play and Open Space 2008.

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