The Planning Inspectorate

Appeal Decision

Site visit made on 8 November 2011

by David Vickery DipT&CP MRTPI

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

Decision date: 16 November 2011

Appeal Ref: APP/K2420/A/11/2159958
9 Spa Lane, Hinckley, Leicestershire LE10 1JA

- 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 Frank Downes against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 10/00980/FUL, dated 7 December 2010, was refused by notice dated 2 March 2011.
- The development proposed is the erection of five dwellings.

Decision

1. The appeal is dismissed.

Main Issues

2. The two main issues are, firstly, the impact on the living conditions of the future occupiers of the proposed dwellings arising from the provision of public open space; and, secondly, the effect of the proposal on the character and appearance of the residential area.

Reasons

3. Planning permission was granted on this site for four dwellings on 24 May 2011 (Ref 11/00224/FUL). Thus this proposal is for one extra dwelling. I agree with the Council that the design of the proposed dwellings would be acceptable.

4. The Council also refused permission because details of how the development would be constructed to Code Level 3 of the Code for Sustainable Homes had not been submitted. However, I agree with the appellant that if I had allowed the appeal then these details could have been dealt with by a suitably worded condition. I note that the Council also accepted this.

Living conditions – open space

5. Saved policies REC3 and IMP1 in the Local Plan respectively set out standards for public open space and the provision of financial contributions towards it. The Council's adopted Supplementary Planning Document (SPD) on Play and Open Space deals with the detailed implementation of these two policies, including the level of financial contribution required. As the site lies close to Queens Park and because the open space there has a low quality score, and as there is a deficit of both equipped and outdoor sports open space in Hinckley, the proposal triggers a requirement for an open space contribution in accordance with the contribution details in the SPD (£6254).

6. The Council said that provided the appellant completed an Obligation contributing the specified amount for the provision and maintenance of off-site open space facilities then its refusal reason on this point would be satisfied. The appellant has submitted a completed Obligation under S106 of the Act. I consider that it fulfils the tests set out in the Community Infrastructure Levy Regulation 122 and the similar advice in Circular 05/2005. The contribution is necessary, directly related and reasonably related in scale and kind to the proposed development.

7. I conclude that the Obligation ensures that there would be no adverse impact on the future living conditions of the occupiers of the proposed dwellings.

Character and appearance

8. The site is a sizeable area of land surrounded by existing dwellings at the end of a long access from Spa Lane. Although the proposal would be seen from many of the dwellings that surround the site, it would only be glimpsed briefly by members of the public from outside the site. Because of this isolated and insular nature it would make its own character within the site.

9. The houses on plots 1 and 5 of the proposal would be in very similar positions as those on plots 1 and 4 of the approved scheme for four dwellings. Two of the remaining proposed houses would be pushed further eastwards into the site than the approved scheme, closer to the eastern boundaries.

10. In particular, the north-eastern house, plot 3, would be tightly packed in that corner of the site. It would be reached via a private drive between the houses on plots 2 and 4. It would be seen against the backdrop of a very large willow tree (outside the site) and tall fir trees (both within and outside the site). When seen from the proposed turning head by plots 2 and 4, this part of the site would look tight and hemmed in. The houses would be very close together with little green space and large areas of hard surfacing for vehicles. This would give a hard, urban appearance dominated by buildings and hard surfaces.

11. The substantial size of the proposed house on plot 3, the narrow gap between the houses on plots 2 and 4, the tall boundary trees, the closeness of the plot 3 house to the site's boundaries, the lack of green areas, and the amount of hard surfacing would together combine to produce a cramped and overdeveloped appearance around this part of the site. The layout as a whole would consequently appear mean and very restricted.

12. In addition, the plot 3 house would be very close to the overhanging willow tree to the east. Whilst this is not a protected tree, it is clearly important in the locality and is seen over a wide area. The appellant suggested that two overhanging branches could be lopped, but from what I saw this would adversely affect the shape of the tree and thus its appearance. Moreover, the closeness of the willow tree and the fir trees to the house and garden would produce a very claustrophobic environment in the rear garden, and it would be highly likely that there would be pressure from future owners of the property to further lop or remove some of these trees, to the detriment of the area's appearance and character.

13. I conclude that the proposal would adversely and seriously affect the character and appearance of the area. It would be contrary to the Council's design policies in the Local Plan.

14. Both main parties accepted that there was not a current five year housing land supply in the Borough, and I have considered Government advice in paragraph 69 of Planning Policy Statement 3 on that point. However, for the sake of one extra dwelling beyond those already granted permission I do not consider that this circumstance would outweigh the very serious visual harm that would be caused. The planning decisions cited by the appellant do not change my mind on this point as they are for larger numbers of dwellings. Similarly, the Government's requirement to make the best and most efficient use of land does not outweigh this harm, either on its own or with the previous point.

15. As the appellant said, the draft National Planning Policy Framework carries very little weight as it might well be changed as a result of public consultation. Whilst I appreciate the appellant's statement that providing jobs for local tradesmen is important economically and for Government policy, it does not justify a poorly designed scheme.

16. For the reasons given above I conclude that the appeal should be dismissed.

David Vickery

INSPECTOR