The Planning Inspectorate

Appeal Decisions

Site visit made on 6 March 2012

by Louise Crosby MA MRTPI

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

Decision date: 23 March 2012

Appeal A Ref: APP/K2420/A/11/2167071
128 Main Street, Markfield, Leicestershire, LE67 9UX

- 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 Sean Lyall against the decision of Hinckley & Bosworth Borough Council.
- The application Ref: 11/00764/FUL, dated 20 September 2011, was refused by notice dated 16 November 2011.
- The development proposed is partial demolition to create a refurbished office building, a refurbished one bedroom house and a new three bedroom detached house.

Appeal B Ref: APP/K2420/E/11/2167067
128 Main Street, Markfield, Leicestershire, LE67 9UX

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Mr Sean Lyall against the decision of Hinckley & Bosworth Borough Council.
- The application Ref: 11/00765/CON, dated 20 September 2011, was refused by notice dated 16 November 2011.
- The demolition proposed is partial demolition to create a refurbished office building, a refurbished one bedroom house and a new three bedroom detached house.

Decision

Appeals A & B

1. Both appeals are dismissed.

Procedural matters

2. Planning permission and conservation area consent were granted in 2010 for the demolition of the existing meeting hall and the erection of a terrace of 3 town houses, at the appeal site. These permissions are extant. The scheme before me would retain most of the meeting hall and canteen and involve the conversion of them into offices and a bungalow respectively. The front boundary wall and gates would be removed and a new 2 storey detached dwelling would be erected. This would be closer to the front of the site and its southern boundary than the previously approved terrace. The Council have raised no objection to the conversion works and I concur.

3. I note that the Council have advised the appellant that changing the rear section of the roof to a hip (from a gable), would overcome their concerns, but the appellant considers this to be unnecessary. I shall deal with the appeal on

the basis of the plans that were before the Council when they reached their decision, which show a gable end.

4. The Council's second reason for refusal, in respect of the planning application, relates to a lack of any definitive measures to address the increase in pressure the proposal would place on play and open space facilities in the local area. As part of the appeal process the appellant has submitted a signed and dated unilateral undertaking. This would secure a commuted sum of £2188.90 to be used in the improvement of open space in the vicinity of the appeal site. The Council's appeal statement confirms that such an agreement would overcome this reason for refusal. I shall deal with the appeal on this basis.

Main Issue

Appeals A & B

5. The main issue is the effect of the detached dwelling on living conditions at 116-118 Main Street and in particular whether it would have an adverse overbearing impact.

Reasons

Appeals A & B

6. The appeal site is located in a predominantly residential area within Markfield Conservation Area. The detached dwelling would be higher than No 116-118 a pair of traditional cottages, which now appear to form one residence. This is lower in height than modern dwellings and has small window openings in the front and rear elevations. The side elevation of No 116-118 (a blank gable end) is separated from the appeal site by a footpath that gives pedestrian access to its rear garden and at least 1 other dwelling.

7. The proposed dwelling would be located close to a wall on the southern boundary, which separates the appeal site from the footpath. The front section of the dwelling would have a gable end facing the side of No 116-118. A rear 2 storey off-shoot would have a pitched roof with a gable end and a ridgeline slightly lower than the front ridge. The front elevation of the proposed dwelling would be set back further from Main Street than No 116-118 and extend back beyond the length of its rear garden. As a result of its overall length, height and proximity to the boundary, it would have a significant overbearing effect on the occupiers of No 116-118.

8. I realise that the fall-back position would be a row of 3 townhouses on the appeal site, which would be taller that the dwelling before me. Nevertheless, in that scheme, the dwelling closest to the southern boundary would be set further back into the site. It would also be sited further away from the side boundary, particularly the front section. On balance, the dwelling before me would have a materially greater adverse effect on living conditions at No 116-118 as a result of its overbearing effect. As such, it would conflict with adopted Hinckley and Bosworth Local Plan 2001 (LP) policy BE1.

9. Turning to other matters raised by local residents and the parish council, I consider that there would be sufficient off-street parking provided, particularly since it is likely that the parking pressures for the offices and the dwellings would occur at different times. Also, I saw when I visited the site that visibility at the entrance to the site would be acceptable. The trees within, and adjacent

to the site are the subject of a detailed tree survey. This shows that the trees would be retained; and protected during construction. Regarding living conditions at other dwellings nearby, I am not convinced that the proposal would affect these to a material degree. I am mindful in reaching this conclusion of the fall-back position of 3 tall townhouses.

10. The submitted unilateral undertaking, would secure a recreation contribution. On the basis of the information before me, including LP policies REC3 and IMP1, the contribution is necessary, relevant to planning, directly related to the development and would fairly and reasonably relate in scale and kind to the development. As such, it meets the tests of Circular 5/05 and also those set out in CIL Regulation 122. Nevertheless, this does not outweigh the harm to living conditions that I have identified above.

11. The conservation area consent application for the proposed demolition works should also fail because the demolition would facilitate the comprehensive re-development of the appeal site, part of which I have found would be unacceptable. In the absence of an acceptable scheme for the whole site the demolition would be likely to result in the site appearing open and untidy. As such, it would be harmful to the character and appearance of Markfield Conservation Area and conflict with LP policy BE8.

12. In conclusion, the lack of harm in relation to other matters and the submission of a unilateral undertaking to overcome the second reason for refusal, in respect of the planning application, do not outweigh the harm in relation to the main issue. On this basis both appeals should fail.

13. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should be dismissed.

Louise Crosby

INSPECTOR