



Appeal Decision

Site visit made on 28 June 2011

by Stephen J Pratt BA (Hons) MRTPI

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

Decision date: 8 July 2011

Appeal Ref: APP/F2415/A/11/2149746

Land at rear of 118 & 124 Station Road, Broughton Astley, Leics LE9 6PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission on an application for the extension to the time limit for implementing a planning permission.
 - The appeal is made by Redfox Land Developments Ltd against the decision of Harborough District Council.
 - The application Ref: 10/01743/ETF, dated 14 December 2010, was refused by notice dated 16 February 2011.
 - The development proposed is erection of three dwellings and creation of access (extension of time to 07/01886/FUL).
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Decision

1. The appeal is **allowed** and planning permission is granted for the erection of three dwellings and creation of access (extension of time to 07/01886/FUL) on land at rear of 118 & 124 Station Road, Broughton Astley, Leics LE9 6PW, in accordance with application Ref: 10/01743/ETF, dated 14 December 2010, subject to the conditions set out in the attached annex.

Procedural matters

2. This appeal relates to an application for the extension of the standard time limit on a planning permission (Ref: 07/01886/FUL) granted on 4 March 2008 for the erection of three dwellings and construction of a new vehicular access on land at the rear of Nos. 118 & 124 Station Road, in Broughton Astley.
3. National guidance¹ on this type of planning application explains that this specific measure to seek an extension to the time limit for implementing planning permissions was introduced to make it easier for developers and local planning authorities to keep planning permissions alive for longer during the economic downturn so that they can be implemented more quickly when economic conditions improve. It advises local planning authorities to take a positive and constructive approach towards planning applications which improve the prospect of sustainable development being taken forward quickly. In making their decisions, they should focus on development plan policies and other material considerations which may have changed significantly since the original grant of permission. However, they may refuse such applications where changes in the development plan and other material considerations indicate that the proposal should no longer be treated favourably.

¹ Greater Flexibility for planning permissions - Guidance [DCLG; October 2010]

Main issue

4. Having regard to the national guidance on this type of application, the main issue is whether there have been any significant changes to the development plan policies and other material considerations since the original grant of planning permission, having regard to the impact of the development on the character and form of the village and its impact on residential amenity.

Reasons

5. Firstly, in terms of local planning policies, the Harborough District Local Plan was adopted in April 2001, and although it had an original end-date of 2006, some policies (including Policies IN/1 & HS/8) have been "saved" until the Local Development Framework is adopted. The Council's Core Strategy was submitted to the Secretary of State in April 2011, but the examination has not yet been concluded. Consequently, the most relevant development plan policies are those previously mentioned, and there have been no changes to these policies since the Local Plan was adopted or since the original planning permission, which is the subject of this appeal, was determined.
6. At the time the original planning application was determined, the Council considered the proposal would be in keeping with the form and character of the surrounding development, would not have an adverse effect on the amenity of adjoining residents and would not result in additional traffic which would give rise to a road safety hazard. Since that time, there have been no material changes in the physical and environmental circumstances or in the overall character and appearance of this residential area.
7. As I saw on my visit, the appeal site comprises 0.15ha of existing garden land at the rear of Nos. 118 & 124 Station Road, within the defined development limits of Broughton Astley. The characteristic feature of this part of the village is the linear nature of the existing detached buildings fronting Station Road, and the properties immediately adjoining the appeal site have relatively long rear gardens. The new development would consist of three bungalows, with a new vehicular access from Station Road, between Nos. 124 & 126. However, apart from the new access, the bungalows would be barely visible from public vantage points along Station Road and Knighton Close.
8. Although this type of development would contrast with the existing linear form and character of its immediate surroundings, there are similar types of infill/backland development nearby. A few properties away, I saw a similar development of bungalows at the rear of the post office (No.134), and a little further away in Dunton Road, there are some examples of similar backland housing development with access off the main road between existing dwellings. There are several other examples of infill development, both comprehensive and piecemeal, in the village, which have occurred over the past decades. These have begun to alter its character from one of a linear settlement to a more nucleated form, with extended development at the rear of properties on the road frontages. Although these developments were permitted before the change in the definition of previously developed land relating to residential gardens, they demonstrate that such development is not unique in Broughton Astley, and is now contributing to the present character and form of the village. Consequently, the form of development proposed on the appeal site would be compatible with the character, form and appearance of the overall village, and accord with the terms of Local Plan Policies IN/1 & HS/8.

9. The Council confirms that the proposal would not have a detrimental effect on residential amenity. Residents living at the neighbouring dwellings (at Nos. 114-128 Station Road and Nos. 3-19 Knighton Close) would probably be aware of the new development, since it may be visible from their homes and rear gardens. I realise that it might change the private outlook enjoyed by neighbouring residents, particularly when using their rear gardens. However, the proposed development would comprise single-storey bungalows sited at the rear of the appeal site, 25m away from the rear elevation of No.116 Station Road and 3m from the side boundary, and 20m from the rear elevation of Nos.9-11 Knighton Close, set back behind a close-boarded fence and other boundary vegetation. The appeal site would also be bounded by mature trees and vegetation, fencing or walls and other boundary treatment. Consequently, I consider that the proposed development would not seriously erode the living conditions, privacy or enjoyment of the private rear gardens of neighbouring residents to a degree that would justify a refusal of planning permission.
10. The main change in circumstances since the original planning permission was granted is the removal of residential garden land from the definition of previously developed land, as a result of an amendment to national policy in PPS3². However, as the Council acknowledges, this does not totally preclude the development of rear gardens; each proposal has to be considered on its own merits and in terms of its impact on its surroundings. Furthermore, although the Council seeks to resist this type of development, I am not aware of any specific policy in an adopted development plan which precludes the development of residential gardens.
11. Moreover, national policy continues to promote effective and efficient use of land within urban areas and existing settlements, and the creation of sustainable communities. The appeal site lies well within the development boundaries of this village, in a sustainable location, close to local shops, schools and services, and alongside a public transport route. The recent Government statement on "Planning for Growth"³ also promotes sustainable development and economic growth, adding support to schemes such as this.
12. Although the site no longer has the priority accorded by including it within the definition of previously developed land, given my conclusions on its impact on the character, appearance and form of the village, and on residential amenity, this change in status is not sufficient to refuse an extension of the time limit on the previous planning permission granted in 2008.
13. The planning history of the appeal site and its surroundings is also an important material consideration in this case. Planning permission was first granted in June 2007 for 4 dwellings and a new access on land to the rear of Nos.124-126 Station Road, encompassing part of the appeal site and the rear garden of the adjoining property at No.126 (Ref: 07/00458/OUT). A subsequent application (now the subject of this appeal) for 3 dwellings on land to the rear of Nos.118-124 was approved in March 2008. A separate application for one bungalow at the rear of No.126, using the same access, was approved in May 2008 (Ref: 08/00469/OUT). This permission was extant at the time the appeal application was considered by the Council, but was not referred to in the officer's report. A reserved matters application was subsequently submitted

² Ministerial statement by Greg Clark MP on Previously Developed Land and Density [9 June 2010; DCLG], and subsequent amendment to Planning Policy Statement PPS3

³ Ministerial statement by Greg Clark MP on Planning for Growth [23 March 2011]

for this proposal in June 2011 (Ref: 11/00702). Thus, part of the appeal site currently has an extant permission for the access road serving a bungalow on adjoining land. The current appeal scheme would make use of this approved driveway and enable a more comprehensive development of land to the rear of these properties.

14. I also understand that the Council does not currently have a 5-year supply of available housing sites in the district, the latest information indicating a current supply of only 4.5 years. The appeal scheme would make a modest contribution to the supply of housing and, in the context of national policy in PPS3 (¶ 69-71), gives further support to extending the time limit on this planning permission.
15. I therefore conclude that there have been no significant changes in terms of the development plan policies or other material considerations relevant to this appeal since the original application was approved. In particular, the changed status of residential gardens in terms of previously developed land is not sufficient to justify refusing planning permission, particularly since the proposal would be compatible with the character and form of the wider village and would not seriously affect the living conditions and general amenity of neighbouring residents, meeting the criteria in Local Plan Policies IN/1 & HS/8. Furthermore, the planning history of the appeal site, including the existence of an extant permission for an access road on part of the appeal site, together with the current shortfall in the 5-year supply of housing land, are further reasons supporting an extension of the time limit of this planning permission.
16. The Council has suggested several planning conditions in the event of this appeal being allowed. In addition to the standard time-limit condition, the approved plans need to be specified, to avoid any doubt. Details of ground and floor levels are needed to ensure the development is compatible with its surroundings. Details of the materials to be used are needed in the interests of visual amenity and to ensure the development harmonises with its surroundings. For similar reasons, further details of landscaping and planting are needed, including implementation of the approved scheme. To safeguard the privacy and living conditions of neighbouring residents, side-facing windows of the bungalows on Plots 1 & 3 should be fitted with obscure glazing and restrictors. For similar reasons, no additional windows shall be formed without seeking further permission from the Council, and no extensions or enlargement of the dwellings shall be made. To ensure a satisfactory form of development and safeguard highway safety, conditions are needed to cover the design of the development, including the access, driveway, parking and visibility splays, along with wheel-washing facilities during the construction period. Working hours should also be restricted, to safeguard the amenities of neighbouring residents.
17. Having also considered all the other points raised in the representations, including the views of the Parish Council and local residents, I therefore conclude that this appeal should be **allowed**, subject to the conditions I have outlined.

Stephen J Pratt

STEPHEN J PRATT

Inspector

SCHEDULE OF PLANNING CONDITIONS ACCOMPANYING
THE PLANNING PERMISSION GRANTED UNDER
APPEAL REFERENCE: APP/F2415/A/11/2149746

- 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: RED.07.009.01 Rev A; RED.07.009.03; RED.07.009.02 and the Location Plan.
- 3) No development shall commence on site until details of the existing and proposed ground levels and finished floor levels of the development have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 4) Notwithstanding the details shown on the approved plans, the windows in the eastern elevation of Plot 3 and the western elevation of Plot 1 shall be fitted with obscure glass, and shall be fitted with restrictors so that they are not fully openable, the details of which shall be submitted to and approved in writing by the local planning authority before development commences on site. The development shall thereafter be implemented in accordance with the approved details prior to the first occupation of the dwelling and shall be retained in perpetuity.
- 5) No development shall commence on site until full details of all materials to be used on all external elevations of the approved buildings, including windows, has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved details and retained in perpetuity.
- 6) 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 additional windows, dormer windows or other openings shall be formed in the dwellings hereby permitted, including their roofs, without the grant of further specific planning permission from the local planning authority.
- 7) 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 extensions or other form of enlargement to the residential development hereby permitted, nor erection of outbuildings or hardstandings, or gates, fences, walls or other means of enclosure, but excluding development permitted under Schedule 2 Part 40 and Class G & H of Schedule 2 Part 1 shall take place without the grant of further specific planning permission from the local planning authority.
- 8) Prior to the commencement of any development on site, a landscape scheme shall be submitted to and approved in writing by the local planning authority. This scheme shall indicate the treatment proposed for all ground surfaces, together with the species and materials proposed and their disposition, existing trees and hedges to be retained, and fences and walls to be erected.
- 9) The approved landscape scheme shall be carried out during the first appropriate planting season following the date when the development hereby approved has commenced and all planted material shall be maintained and replaced as necessary by the applicant and/or owners of the said land at the time for a period of not less than 5 years from the date of planting.

- 10) All details of the proposed development shall comply with Leicestershire County Council design standards. Such details must include parking and turning facilities, access widths, gradients, visibility and pedestrian splays, signing and surfacing materials. No development shall commence until these details have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented fully in accordance with the approved details prior to the first occupation of the development and shall be retained in perpetuity.
- 11) No gates, barriers, bollards, chains or other such obstructions shall be permitted within 7 metres of the highway boundary, unless opening inwards.
- 12) Before first occupation of the development hereby approved, visibility splays of 2.4 metres by 70 metres shall be provided at the junction of the access with Station Road. These shall be in accordance with the current Leicestershire County Council design standards and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
- 13) The shared private drive shall be constructed as shown on the submitted plan, including for radii at its junction with Station Road, prior to any new dwelling being occupied, and once provided shall be so maintained at all times. If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.
- 14) All on site working, including demolition and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of 8.00am and 6.00pm Monday to Friday, 8.00am and 1.00pm on Saturday and not at all on Sunday, Public and Bank Holidays.
- 15) For the period of the construction of the development, vehicle wheel cleaning facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned before entering the highway. The wheel washing facilities provided shall be maintained for the operational construction period of the development hereby approved.