

Appendix A

Appeal by Mr M Kirby

Site at 1 Branton Close, Boythorpe, Chesterfield.

CHE/17/00017/OUT

2/1002

1. Planning permission was refused on 4th April 2017 for a dwelling joining 1 Branton Close, Boythorpe. The application was refused by planning committee against the advice of officers for the following reasons:
2. It is considered that the introduction of a built form on this current piece of open grass verge would be at odds with the character of the area, where the prevailing streetscene is set back and includes a consistent building line. Furthermore the visual impact of the development proposed would be detrimental to the character and appearance of the streetscene, which is enjoyed by local residents as an area of open grass verge, and subsequently it is considered for these reasons the development is contrary to the provisions of policies CS2 and CS18 of the Chesterfield Local Plan: Core Strategy 2011-2031.
3. An appeal against the decision has been determined by the written representation appeal method and has been allowed.
4. The main issue is the effect of the development on the character and appearance of the area. The appeal site comprises part of the side garden to No 1 Branton Close and an adjoining grass verge. It is a corner plot next to the junction between Branton Close and Grindlow Avenue. The indicative layout shows the dwelling attached to the western side of No 1 Branton Close. This would form a short terrace that would extend out into Grindlow Avenue. The dwelling would sit at a transitional point between the stepped building line formed by Nos 16-26, and the building line established by the 3 storey Potters Place development. The building line established by Nos 16-26 is stepped towards the appeal site, and the development would be broadly consistent with this. It would also be next to the junction with Branton Close which would provide a more open setting to the north. In this position, a minor encroachment out into Grindlow Avenue would not be out of character with the surrounding area.

5. The development would incorporate part of the existing grass verge and would lead to some loss of openness in this regard. However, verges of this depth are not typical of the surrounding area. The verge is also not of high environmental value or large enough to form a useable open space. A narrower verge could be retained at reserved matters stage that would be comparable to the grass verges at the far end of Branton Close, and the appellant has indicated their willingness to accommodate this. Similarly, the details of any boundary treatments could be controlled at reserved matters stage.
6. For these reasons, the inspector concluded that the development would not significantly harm the character or appearance of the area. It would therefore accord with Policies CS2 and CS18 of the Chesterfield Local Plan: Core Strategy 2011-2031 (2013). These Policies seek to ensure, amongst other things, that development should identify, respond to, and integrate with the character of the site and its surroundings.
7. In respect of other matters the inspector commented that the traffic and parking associated with a single dwelling would not be significant. Adequate parking and access arrangements could be secured at reserved matters stage. The issue of impact on property values had also been raised. However, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

8. The Council suggested a number of conditions, some of which the inspector edited for clarity and enforceability. In addition to the standard outline conditions, a condition requiring that site investigations be undertaken prior to the commencement of development has been imposed. This is necessary in order to address any coal mining legacy issues on the site. A condition requiring the submission and approval of details relating to drainage is necessary in order to comply with development plan policy. These are pre-commencement conditions as the findings of the site investigations, and the design of any drainage scheme, could affect the subsequent development works. A further condition requires that the position of the new dwelling allow for a 2.4 x 43 metres visibility splay from

Branton Close on to Grindlow Avenue. Whilst scale and layout are reserved matters, it is important that the position of the dwelling does not prejudice highway safety. A condition has also been imposed restricting the hours of construction, which is necessary in order to protect the living conditions of the surrounding properties.

9. The Council also suggested a number of other conditions. However, these address matters that are reserved, including those relating to land and floor levels (scale/appearance), materials (scale/appearance), and access and parking arrangements (appearance/access). Such conditions are therefore not appropriate at this stage.

Schedule of conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place until a scheme of site investigations to identify any coal mining legacy issues has been submitted to and approved in writing by the local planning authority. The approved scheme shall be undertaken prior to the commencement of development and a report of the findings, including any necessary remedial works, shall be submitted to and approved in writing by the local planning authority. Any remedial works shall then be implemented prior to the commencement of development.

- 5) No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the local planning authority.
- 6) The position of the dwelling shall allow for a 2.4m x 43m visibility splay from Branton Close on to Grindlow Avenue.
- 7) Demolition or construction works shall take place only between 8:00am and 6:00pm Monday to Friday, 9:00am to 3:30pm on a Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays. The term "work" will also apply to the operation of plant, machinery and equipment.