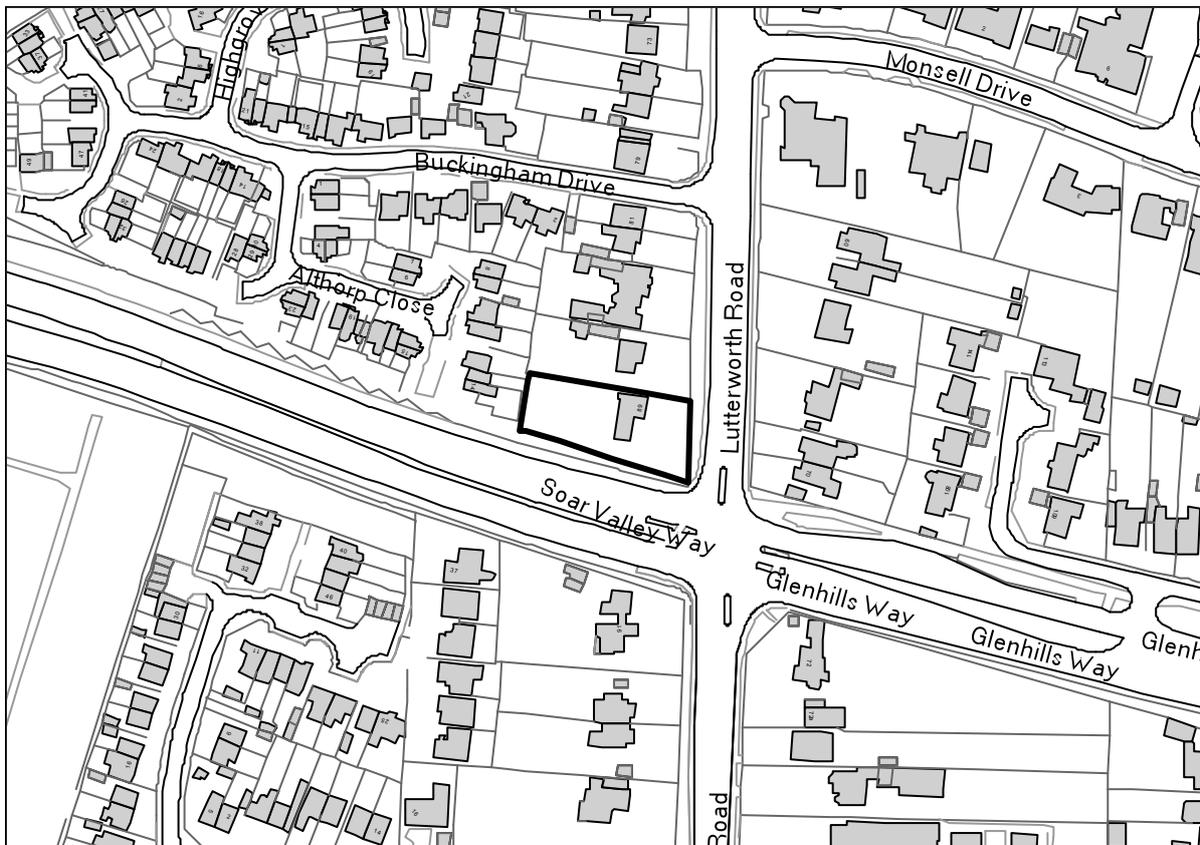


PLANNING INSPECTORATE APPEAL DECISIONS		
20188027A	89 LUTTERWORTH ROAD	
Proposal:	DEMOLITION OF BUNGALOW; CONSTRUCTION OF ONE HOUSE (1 x 5 BED) WITH DETACHED GARAGE (CLASS C3)	
Appellant:	MR S MAHIL	
Appeal type:	Planning Appeal	
Appeal received:	19 March 2018	
Appeal decision:	Dismissed	
Appeal dec date:	26 October 2018	
PB	AREA: W	WARD: Aylestone



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Summary

- the application was refused under delegated powers; it had not been demonstrated that there would not be tree loss that would be harmful to the privacy of neighbouring occupiers and the character and appearance of the area;
- the appeal was dismissed; and

- the Inspector formed his own opinion about the likely impacts of the development upon trees and found that there would be harm to trees which would have an unacceptable impact upon the character and appearance of the area, but that there would be no unacceptable impact upon privacy.

The Proposal and Decision

In 2016 planning permission was sought for the demolition of the existing bungalow at 89 Lutterworth Road and the construction of a one house with detached garage (20162154). The new house and garage were considered to be generally acceptable however an ecological survey and a robust tree survey were not, despite requests for these during the course of the application, received. Planning permission was refused on 24th February 2017 for the following reason:

1. In the absence of an ecology survey and an appropriate tree survey, the impact of the development upon biodiversity and trees within and adjacent to the site has not been evidenced, and as a result it has not been demonstrated that the proposal would safeguard the privacy of the neighbouring occupiers and the character of this suburban part of the City, and the need to safeguard any protected species or habitats of particular value on the site has not been established, contrary to Policies CS03, CS08 and CS17 of the Leicester Core Strategy (2014) and saved Policy PS10 of the Leicester Local Plan (2006).

A second application for the same development was made in 2017 (20171806). The application was accompanied by a protected species survey and a tree survey. However, the tree survey failed to show the relationship between the existing trees and the proposed buildings, meaning that it was not possible to properly assess what tree protection measures and/or tree replacements would be needed. Again, despite repeated requests during the course of the application, the required information was not received. Planning permission was refused on 27th November 2017 for the following reason:

1. In the absence of a satisfactory tree survey, the impact of the development upon trees within and adjacent to the site has not been evidenced, and as a result it has not been demonstrated that the proposal would safeguard the privacy of the neighbouring occupiers and the character of this suburban part of the City, contrary to Policy CS03 of the Leicester Core Strategy (2014) and saved Policies PS10 and UD06 of the Local Plan (2006).

It is this second refusal of planning permission that was the subject of appeal.

The Appeal Decision

The appeal was dismissed. The Planning Inspector agreed with the Council by concluding that:

“...In the absence of any formal assessment of the effect of the proposed development on the health and longevity of these trees, it appears to me that there is a realistic likelihood that these trees would decline or die. If this were to occur material harm would be caused to the character and appearance of the area” (paragraph 7).

However, the Planning Inspector disagreed with the Council by concluding that the proposal would be unlikely to harm and reduce the tree screening along the side

boundary with 87 Lutterworth Road. Accordingly, he found no harm to the privacy of the occupiers of that neighbouring property.

Commentary

In the absence of any formal assessment of the effect of the development upon trees, the Planning Inspector in this case has formed his own opinion about the likely impacts of the development. He has found that it is likely that there would be an adverse impact upon some trees within the site and that this would be harmful to the character and appearance of the area, but that it is unlikely that there would be harm to the tree screen alongside 87 Lutterworth Road and consequently that there would be unacceptable privacy impact.

There was no application for costs in this case.