

Appeal Decision

Site visit made on 2 December 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 8 February 2017

Appeal Ref: APP/A3010/W/16/3159336

Land at The Bungalow, Brough Lane, Elkesley, Nottinghamshire, DN22 8AP

- 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 Mrs E A Boyle against the decision of Bassetlaw District Council.
 - The application Ref 16/00286/FUL, dated 1 March 2016, was refused by notice dated 19 July 2016.
 - The development proposed is the erection of 4 no. single storey dwellings and alterations to Brough Lane.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 13 January 2017.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 no. single storey dwellings and alterations to Brough Lane at Land at The Bungalow, Brough Lane, Elkesley, Nottinghamshire, DN22 8AP in accordance with the terms of the application, Ref 16/00286/FUL, dated 1 March 2016 subject to the conditions in Annex A.

Procedural Matter

2. The Decision Notice refers to Policy DM8 of the Bassetlaw Local Development Framework Core Strategy and Development Management Policies DPD (LDF) but the Council's statement refers to Policy DM4. Since Policy DM8 relates to the historic environment, I confirm that I have considered the proposal against Policy DM4 which concerns design and character.

Main Issues

3. The main issues in this case are as follows:
 - The effect of the proposal on the character and appearance of the surrounding area; and
 - The effect of the proposal on the living conditions of nearby residents, with particular reference to noise and disturbance; and
 - Whether the proposal would provide adequate living conditions for future occupiers, with particular reference to amenity space.

Reasons

Character and appearance

4. The appeal site is the garden area to The Bungalow and is within the development boundary for Elkesley. There are other dwellings to the north and east and open agricultural land to the south and west.
5. LDF Policy DM4 is permissive of residential development that is of a high quality design. New development, particularly backland and infill development, should respect its wider surroundings, in relation to historic development patterns or building/plot sizes and forms; density; and landscape character (criterion i). It should also respect its context in terms of height, scale, mass, materials and detailing (criterion ii).
6. Policy 2 of the Elkesley Neighbourhood Development Plan 2015-2028 (Neighbourhood Plan) relates to design and is supportive of development where it demonstrates consideration of local character. Neighbourhood Plan Policy 5 relates to infill development and requires proposals to be of high quality design that is inkeeping with the character of the area particularly in relation to historic development patterns and building plot size. The Council advises that the appeal site is within Zone 2 of the village which is characterised by a linear layout with properties being two storeys with generous plots.
7. Despite this overall description of the wider area comprising Zone 2, there are existing bungalows adjoining the appeal site immediately to the east in Brough Lane at Pepperly, Hawthornes and Ken-Mar. Whilst the proposal would introduce four new bungalows to the side and rear of the existing dwelling, they would adjoin residential development on two sides and relate well to the western edge of the village. The proposed dwellings would have amenity spaces that would meet the sizes required by the Council. Moreover the extent of the plots and the density of the scheme would be generally commensurate with other existing development nearby (including the two pairs of semi-detached dwellings on the corner of Brough Lane and Lawn Wood Lane). Additionally, the site is screened by existing substantial evergreen planting and the proposal would not be prominent from Brough Lane which is at a lower level, or from the surrounding countryside.
8. In this overall context, I am not persuaded that the proposed dwellings would appear squeezed into the site or lead to its overdevelopment. Rather, in my view the proposal would be inkeeping with the established built form, density and historic pattern of the existing development nearby and so would respect its surroundings.
9. I therefore conclude that the proposal would cause no harm to the character and appearance of the surrounding area. This being so, it would not conflict with LDF Policy DM4 or Neighbourhood Plan Policies 2 or 5 in this regard. It would also accord with the core planning principle of the National Planning Policy Framework (the Framework) to seek to secure high quality design.

Living conditions – nearby occupiers

10. The Council raises concerns about the proposal's impact on the amenity of the occupiers at adjoining Pepperly and Applewood with regard to additional noise, light and activity. Pepperly is a detached bungalow which adjoins the site to the east. It is adjacent to the existing access driveway where there is a low

wall and fence and planting along the boundary.

11. The driveway would be widened and brought in closer proximity to the boundary with Pepperly. I accept that the introduction of 4 additional dwellings would give rise to more activity on the site including an increase in the number of vehicle and pedestrian movements along the driveway. That said, although it has a conservatory to the rear, there are no windows on the Pepperly's flank wall facing the appeal site. Pepperly is set off the shared boundary and is for the most part screened from the appeal site by the existing boundary treatments and planting. The rear garden of Applewood on Lawn Wood Lane also adjoins the appeal site, and would be adjacent to the corner of the proposed bungalow on Plot 1. However, whilst the proposed house's side and rear gardens would adjoin the end of Applewood's long rear garden, they would be at some distance from the rear of the dwelling itself.
12. This being so, and since the number of dwellings proposed is limited to 4, I am not convinced that the appeal scheme would give rise to any undue increase in noise and disturbance to the extent that the living conditions of the occupiers of either Pepperly or Applewood would be harmed. Whilst I have no further details as to its concerns in this regard, given the site's existing residential use and proximity to the main extent of the village and other residential properties, nor am I persuaded that the proposal would result in any harmful increase in light pollution.
13. I therefore conclude that the proposal would cause no harm to the living conditions of nearby residents, with particular reference to noise and disturbance. Thus there would be no conflict with Neighbourhood Plan Policy 5 which requires development on infill and redevelopment sites not to reduce the privacy or amenity of adjoining properties. The proposal would not be at odds with LDF Policy DM4 which requires new development to ensure that it does not have a detrimental effect of the residential amenity of nearby residents (criterion v). Nor would the proposal be contrary to core planning principle of the Framework to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions – future occupiers

14. Although not a reason for refusal, due to the amount of hard standing proposed for vehicular access and car parking, the Council is concerned about the quality of the north facing amenity spaces that would be provided for the proposed houses.
15. I am mindful that the rear gardens are in excess of the minimum sizes required by the Council's Supplementary Planning Document Successful Places (SPD). Whilst the rear gardens to Plots 1, 2 and 3 face north, those on Plots 1 and 2 are of a sufficient size and length to compensate for any undue overshadowing. Although they would not be private, these two plots also have the potential to provide alternative sitting out areas to the front of the properties (such provision is recognised as a possibility in the SPD). Although the rear garden to Plot 3 would be shorter, the bungalow there would have larger side and front garden areas facing west and south respectively which would be relatively private given the plot's position in the corner of the site.

16. Overall, whilst the SPD seeks to maximise light and privacy of private garden spaces, it does not preclude north facing rear gardens and I am content that as a whole the scheme provides a level of outdoor amenity space that is proportionate to the type of accommodation, appropriate to its location and suitable to meet the likely requirements of the future occupiers.
17. I therefore conclude that the proposal would provide adequate living conditions for future occupiers, with particular reference to amenity space. Thus I see no conflict with LDF Policy DM4 which requires new development to provide a decent standard of private amenity space (criterion v). Nor would the proposal be at odds with the core planning principle of the Framework to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

18. Although not a reason for refusal, the Council raises safety concerns as to pedestrian access to and from the site, particularly since the proposed bungalows would be likely to be attractive to elderly occupiers. Local residents are also concerned more generally about highway safety and an increase in traffic on Lawn Wood Lane and Brough Lane in particular (which they consider to be a bridleway unsuitable for vehicles).
19. LDF Policy DM4 advises that new development should ensure that all people, including those with disabilities, can easily and comfortably move through and into the site (criterion iv). Neighbourhood Plan Policy 2 also looks to maximise opportunities to integrate development in with the existing settlement through creating new connections and improving existing ones to and from new development.
20. The site would be accessed via the existing driveway from Brough Lane, a single tack lane that currently serves The Bungalow, Pepperly and Hawthornes and a sewage works to the south. Brough Lane is a valued local recreational asset used by ramblers, runners, horse riders, children as a route to school, along with farmers. I understand that it forms part of a wider route of public rights of way. It is single width with banks on either side and lacks footpaths. There is no speed restriction or lighting and the surface is uneven.
21. That said, the eastern section of Brough Lane is already used by vehicles associated with existing dwellings and the sewage works. The appeal proposal would increase activity on Brough Lane but only on its initial eastern section for a limited distance. Given the modest scale of the scheme for 4 dwellings the increase in the volume of traffic would not be great. Moreover, the appeal scheme incorporates the widening of the site access (including improvements to visibility) and alterations to Brough Lane (including its widening on the north side along the site frontage to allow a passing place, re-surfacing up to the appeal site access, and the provision of a turning head for tankers visiting the sewage works). Subject to the imposition of conditions to secure these improvements, which would be of benefit to the users of Brough Lane, the Council and the Highway Authority raise no objections to the scheme. I have seen no evidence that would lead me to a different view and am content that there would be no harm to pedestrian or highway safety.

22. The occupier of Pepperly is concerned about the height of the appeal site's conifers. However, these are already in place and this private matter between the appellant and the occupiers of Pepperly would exist in the absence of the appeal scheme. The impact of the proposal on wildlife including bats, birds and foxes is also raised. Since the site is a residential garden and the existing trees and vegetation are for the most part to be retained, I see no reason why the proposal would lead to any harmful effects in these regards. The timing of works to avoid bird the breeding season and the provision of bat and bird boxes as part of the scheme would also help to mitigate any potential impacts. These could be secured via a planning condition. The Council raises no objections on these points.
23. A local resident refers to the proposal's effect on the value of their property but whether a financial or other loss would be experienced is not something which is to be protected in the public interest. Whilst there would be some disruption including noise and disturbance associated with the construction phase of the scheme (including the undertaking of the improvement works to Brough Lane), this would be temporary in nature and relatively shortlived given the modest scale of the proposal.
24. The Parish Council is also concerned that the bin collection point is at the end of the driveway and a lack of visitor parking, particularly in the context of elderly occupants. However, neither the Council, nor the Highway Authority, raise any objections in these regards and I see no reason to come to a different view.
25. The Council accepts that it cannot demonstrate a deliverable 5 year supply of housing. Paragraph 49 of the Framework advises that in such situations, relevant policies for the supply of housing should not be considered up-to-date. Paragraph 14 of the Framework sets out the presumption in favour of sustainable development and advises that where the development plan is out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this context, the provision of 4 homes is a benefit of the scheme.
26. Nevertheless, in this instance I have found that the proposal would accord with the development plan and, in line with the first bullet point of the second part of paragraph 14 of the Framework, should therefore be approved without delay. Whilst local residents and the Parish Council refer to a previously refused scheme on the appeal site and other more preferable sites for development identified in the Neighbourhood Plan, these are not reasons to withhold planning permission for development that I have found to be acceptable.

Conclusion and Conditions

27. For the reasons set out above, I conclude that the appeal should be allowed.
28. The Council has suggested a number of conditions which I have considered in light of the advice in the National Planning Practice Guidance. It is necessary that the development shall be carried out in accordance with the approved

plans for the avoidance of doubt and in the interests of proper planning.

29. Conditions relating to materials and means of enclosure are required in the interests of the character and appearance of the surrounding area. Conditions requiring the construction of the access (including details concerning its drainage, surfacing and gradient) and the laying out of the car parking and turning areas, along with the retention of those areas, are necessary in the interests of highway safety. A condition requiring the improvements to Brough Lane including the provision of the proposed turning head and layby passing place is required for the same reason. A condition to ensure the retention of the approved visibility splays is necessary to ensure adequate visibility at the access.
30. A condition to ensure the access is provided in advance of the construction of the dwellings is needed to ensure that vehicles entering and leaving the site whilst the houses are being built can pass each other in the interests of highway safety.
31. A condition to preclude any clearance works during the bird breeding season required to ensure any birds and their nests are protected from disturbance or destruction. A condition is also necessary to provide bird and bat boxes within the site in the interests of providing benefits to biodiversity. However, since they are shown on the approved plans and I have been provided with no further justification in this regard, a condition requiring the submission of further details in relation to wheelie bin collection points is not required.

Elaine Worthington

INSPECTOR

Annex A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, TP02 Proposed Site Plan Rev B, TPO3 Proposed Plan Type A Rev A, TPO4 Proposed Plan Type B Rev A, 36559/C/001 Rev B Swept Path Analysis, 36559/C/002 Rev D Proposed Access Works, and 36559/C/003 Swept Path Analysis Refuse Vehicle.
- 3) No development of the dwellings shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved sample.
- 4) The dwellings shall not be occupied until the access to the site has been constructed in accordance with approved drawing number 36559/C/002 Rev D (including the provision of the visibility splays) and has been drained and surfaced and constructed with a gradient not exceeding 1 in 10 for a distance of 20 metres from the rear of the highway boundary in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that area shall be retained as such thereafter.
- 5) The works comprised in the construction of the dwellings hereby permitted shall not take place before the works comprised in the provision of the access to the site are completed.
- 6) Development shall not begin until a turning head and passing place layby in Brough Lane have been constructed and Brough Lane has been widened and surfaced as shown on approved drawing numbers 36559/C/002 Rev D and 36559/C/003 and in accordance with further details which have been submitted to and approved in writing by the local planning authority.
- 7) The dwellings shall not be occupied until the parking/turning areas shown on drawing number TPO Proposed Site Plan Rev B have been provided and those areas shall thereafter be kept available at all times for the parking and turning of vehicles.
- 8) No structure or erection exceeding 0.6 metres in height shall be placed within the sight lines shown on approved drawing number 36559/C/002 Rev D.
- 9) No development shall take place until details of the means of enclosure of the site including a retaining wall to Brough Lane have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details before any of the dwellings are occupied.
- 10) Site clearance works shall not take place at any time during the bird breeding season (March to September inclusive).

- 11) No development shall take place until details of the provision of bird and bat boxes have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation of the dwellings.