
Appeal Decision

Site visit made on 16 May 2017

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 21 June 2017

Appeal Ref: APP/B3030/W/17/3168428

**Land at Ashcroft (north of Cherry View), off Bilsthorpe Road,
Eakring NG22 0DJ**

- 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 James Meanley against the decision of Newark & Sherwood District Council.
 - The application Ref 16/01745/FUL, dated 18 October 2016, was refused by notice dated 14 December 2016.
 - The development proposed is full application for the erection of two, two-bedroomed dwellings and associated access.
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Decision

1. The appeal is dismissed.

Application for costs

2. Separate applications for costs were made by Mr James Meanley against Newark & Sherwood District Council and Eakring Parish Council. These applications are the subject of separate Decisions.

Procedural matter

3. I had not been furnished with a copy of Policies SP1 and SP3 of the Newark and Sherwood Core Strategy adopted 2011 (CS). However, as reference had been made to both policies by the main and interested parties, no one's interests have been compromised by my requesting and receiving a copy of both policies.
4. I have not taken into account the settlement boundary of the 1999 Local Plan as it was superseded by the CS and therefore no longer forms part of the statutory development plan.

Main Issues

5. The main issues in this case are whether the proposed development would preserve or enhance the character or appearance of the Eakring Conservation Area and would be consistent with the settlement strategy of the development plan.

Reasons

Conservation Area

6. The appeal site lies to the north off Bilsthorpe Road on a plot of land which at one time was part of a larger strip of land and formed an orchard linked to Cherry View Cottage. The appeal site is described within the appellant's Heritage Impact Assessment which accompanied the appeal as, *'part of a system of small fields, gardens and plots that provide a dispersed setting to the village's rural fringe and transition into the rural hinterland...'* The two linked cottages would face onto an unnamed track which forms part of footpath 22. Currently, no housing faces onto this particular track and from the historic maps provided it appears that no housing fronted the track in the past, which extends in a northerly direction towards Red Hill Lane and is located to the west of the village between the locally listed Apple Cottage and Cherry View Cottage.
7. I observed the distribution of dispersed modest housing which faces onto Bilsthorpe Road at the western approach to the village. This then becomes more dense as the road changes name to Main Street as it reaches the historic core of the village. A number of narrow back lanes, fronted with traditional cottages, peel off the main routes through the settlement.
8. I have not been provided with the Conservation Area Appraisal of the Eakring Conservation Area (CA). However, from what I have read and observed a substantial element and significance of the subtle character of the CA which was extended in 1988 to encompass the whole of the built form associated with Eakring, derives from the historic plot boundaries of the fields and gardens, the green lanes and unmade track, as well as the historic crofts and tofts. These are important in understanding the history of the village which was farmed by the cultivation of strips of land based on the three field system. The extent and pattern of the plots vary depending on the proximity to the core of the village and to the rural hinterland.
9. I note that Apple Cottage lies to the west of the appeal site and Cherry Cottage to the south. However, in my judgement these examples of detached dwellings set in large plots facing Bilsthorpe Road are substantially different to the proposed development which is more akin to the neighbouring Ashcroft Cottage and no 2 Bilsthorpe Road. Indeed, from my site visit, at which I took the opportunity to visit the wider CA, I have no reason to disagree with the appellant's Heritage Impact Assessment which characterises the appeal site as falling within the dispersed settlement fringe marked by Apple Cottage. The denser village core is signalled by Ashcroft and No 2 Bilsthorpe Road which lie to the east of the site.
10. I note from the extract of the Conservation Area Appraisal provided that the infill of plots by residential development can blur the historic plot boundaries and that it is important that these be retained. I am aware that the field boundary of the appeal site would still be recognisable following the construction of the two cottages and the associated garaging. However, rather than reinforcing the morphology of the plot boundaries, the proposed development would result in the subdivision of the plot and the introduction of housing in a sensitive location at the very edge of the village which would neither preserve or enhance the character or appearance of the CA.

11. The distribution of development within and around the village is a substantial and subtle element of the historic character and appearance of the village. I note that the appeal site, part of the former Losky Hill Field, has not been identified specifically within the CAA. Nonetheless, I must have special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
12. The appeal site is at the outskirts of the village where there is a perceptible difference in character to the historic core. I concur with the Council's Conservation Officer that the design of the proposed development would be acceptable in isolation. However, I must consider the appeal proposal in the context of its proposed location within the dispersed settlement fringe. It is in this context that I conclude the proposal would result in harm to the character and appearance of the CA. This harm would result from the subdivision of the area of land to provide new housing and garaging, which would face out towards the open countryside, on previously substantially undeveloped open land altering the open aspect and introducing an additional spur of development over and above the existing housing which faces onto Bilsthorpe Road.
13. Moreover, whilst its design is in keeping with housing within the CA and that the boundary treatment could be controlled by condition, it would not for the reasons set out above, make a positive contribution to the local character or distinctiveness.
14. Consequently, I conclude that the development would fail to preserve the character and appearance of the Conservation Area as a whole and would therefore be contrary to Policy CP 14 of the CS and Policies DM5 and DM9 of the Newark & Sherwood Allocations & Development Management Development Plan Document, adopted 2013 (DPD).
15. I consider that the nature of the harm to the character and appearance of the Conservation Area would be less than substantial. Therefore, I must weigh the harm against any public benefits of the proposed development.
16. I note that the proposed development would contribute two two bedroomed properties to the local housing market, which would due to their size be more affordable than larger developments, and that there may be a demand for such housing locally, and that the housing would contribute to the district's five year supply of housing. This I agree would provide some benefit. However, the proposed development would only provide two dwellings. Therefore, I accord these benefits limited weight.
17. I conclude therefore that the limited public benefits would not be sufficient to outweigh the harm to the CA. In coming to this conclusion, I am aware that the Council's Conservation Officer came to a different conclusion, and that the appellant's HIA referred to negligible levels of harm to the significance of the CA.

Development Strategy

18. S38 (6) of the Planning and Compulsory Purchase Act and Paragraph 2 of the Framework is clear that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for

Newark and Sherwood consists of the (CS) adopted 2011 and the DPD, adopted 2013 (DPD). I understand that a review of the development plan is taking place. However, I have been given little information as to the stage it has reached.

19. Policy SP1 of the CS sets out an overarching settlement strategy to direct development to settlements commensurate with the level of services which they can provide. Eakring lies within the lowest tier, has no defined village envelope and development falls to be judged by the criteria of Policy SP3 of the CS.
20. Given that Policy SP3 provides no defined village envelope it is a matter of planning judgement whether the appeal should be considered to lie within the open countryside and therefore falls to be determined by Policy DM 8 of the DPD. Nonetheless, I have been referred to the criteria within Policy SP3 of the CS which predates the publication of the Framework. This sets out a positive approach to development subject to it being consistent with five criteria which cover, Location, Scale, Need, Impact and Character.
21. As set out above, in my consideration of the effect of the proposed development on the CA, I have concluded that the appeal site lies within the dispersed settlement fringe. Consequently, I conclude for the purposes of this appeal that the development site, which is accessed off an unmade track, at the edge of the village, should not be considered to be within the main built up area of the village. I am aware that the appeal site is surrounded on three sides by the curtilages of domestic properties. However, this does not mean that it should of necessity be considered to be within the main built-up area of the village. From my site visit at which I walked a length of the public footpath and explored the wider village it was clear to me that the appeal site was at almost the furthest edge of the village. This conclusion is consistent with the supporting text of the policy which states for decision making, the 'main built-up area' to refer normally to the buildings and land which form the core of the village, where most housing and community facilities are focused. I note the appeal site would be relatively close to the bus stop. However, this would not alter my conclusion relating to its location.
22. Nonetheless, I am aware that the need element of the policy relates to local housing need. This requirement is not consistent with the provisions of the Framework and as such, I consider this aspect of the policy which was adopted prior to the publication of the Framework, to be out of date. This conclusion is similar to that of the Inspector who determined an appeal (APP/B3030/W/16/3151592) in a village at a similar position within the settlement hierarchy. Therefore, I accord limited weight to this aspect of the policy of the plan. However, I consider the rest of the policy to be broadly consistent with Paragraph 55 of the Framework and therefore accord the policy substantial weight consistent with Paragraph 215 of the Framework.
23. I consider the scale and impact of the proposed development on infrastructure to be acceptable. Matters of character are considered above.
24. It is no part of the appellant's case that the proposed development would accord with the provisions of Policy DM8 of the DPD which refers to development away from the main built up areas of villages, in the open countryside. This policy was adopted after the publication of the Framework

and as such I accord it full weight, and consider it to be consistent with the provisions of the Paragraph 55 of the Framework.

25. Consequently, I find that the proposed development would be contrary to both Policy SP3 of the CS and Policy DM8 of the DPD.

Other matters

26. The appellant considers that the Council has been inconsistent in how it has determined applications for housing within the Rural Areas, citing a number of developments to illustrate its position. Similarly, I have been referred to a number of examples of developments within the CA. Nonetheless, I have not been provided with all the details of each of the cases. Moreover, I have determined the appeal on the individual merits of the proposed development before me.
27. I also am aware of the situation relating to the refusal of an application for eco homes to the south of Bilsthorpe Road further away from the village.
28. I appreciate that the planning officer recommended that the proposed development should be approved. However, this is an exercise of judgement and does not overcome the concerns raised above.

Planning balance and conclusion

29. The Council considers that it is able to demonstrate a five year supply of deliverable housing sites. However, irrespective of which, I note within the Council's Statement of Case that until the Council's Objectively Assessed Need and housing target has been taken to adoption that it will, 'continue to adopt a pragmatic approach for development which is acceptable in all other technical and environmental effects and which will boost the housing supply in the short term'. However, I have not been provided with any further information as to the status of this position.
30. Even were I to agree with the appellant, for the purposes of this appeal that the Council cannot demonstrate a five year supply of deliverable housing and that the conflict with Policy SP3 of the CS and Policy DP8 of the DPD should be accorded limited weight, Paragraph 49 of the Framework states that housing applications should be considered in the context of sustainable development. Paragraph 14, states, for decision-taking this means, where relevant policies are out- of- date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole: or specific policies in the Framework indicated development should be restricted. Such a policy relates to matters relating to heritage considerations.
31. The development would make a contribution towards meeting housing need in the district and widening the choice of homes for residents of Eakring. This is a positive benefit of the scheme. However, it would provide just two new dwellings to the housing supply; consequently the weight I give to this benefit is limited.
32. The Framework is clear that the specific policies relating to heritage assets must be satisfied. As set out above I have concluded that the proposal does not preserve or enhance the character or appearance of the CA as a whole.

Therefore, the proposed development would not be sustainable development. Consequently, I conclude that the appeal should be dismissed.

L. Nurser

INSPECTOR