
Appeal Decision

Site visit made on 16 May 2017

by A Napier BA(Hons) MRTPI MIEMA CEnv

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

Decision date: 23 June 2017

Appeal Ref: APP/X2410/W/17/3167101

Land to north of 237 Bradgate Road, Anstey LE7 7FX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Richard Smallman (Delrosa Developments Ltd) against the decision of Charnwood Borough Council.
 - The application Ref P/16/2070/2, dated 8 September 2016, was refused by notice dated 23 December 2016.
 - The development proposed is described as 'outline planning application for the demolition of no. 237 Bradgate Road and construction of a replacement gatehouse residential building, together with the development of four dwellings to the north, connected via a new shared surface access road, with all matters reserved except for access and layout'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description used in the heading above is that given on the application form. The appeal form and the Council's decision notice provide an alternative version, where the proposal is described as the 'erection of up to five dwellings and associated access following demolition'. As the appeal form confirms that the original description has changed, I intend to consider the appeal on this basis.
 3. The application was made in outline and the form indicates that approval is sought for access and layout, with matters concerning appearance, landscaping and scale reserved. A number of plans were submitted with the application. These include the layout drawing, Ref SK01AK. Although the application form indicates otherwise, the appellant's appeal statement refers to this layout as indicative. However, from the details provided, including the Council's officer report, I am satisfied that the Council considered this layout as part of the proposal when it determined the application. I intend to do the same with the appeal.
 4. Drawing Ref SK09 shows the proposed access arrangements and, as such, also forms part of the appeal before me. However, for the reasons given, I intend to treat as drawings Refs SK02E, SK04E, SK05 and SK06, which show the elevations and floor plans for proposed Plot 1 and streetscene elevations, and the landscape concept drawing, 1378-13-03C, as indicative.
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5. Subsequent to the decision on the application, the Council's *Housing Supplementary Planning Document* (SPD) was adopted. It is necessary for me to determine the appeal in light of the current context for policy and guidance. As the main parties have been provided with an opportunity to comment on this document as part of the appeal process, I am satisfied that my intention to have regard to it will not be prejudicial to the interests of any party.
6. Similarly, I have also taken into account the recent judgement¹ concerning the interpretation of paragraph 49 and its relationship with paragraph 14 of the National Planning Policy Framework and provided an opportunity for both main parties to comment on this matter.

Main Issues

7. The main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the area, including in relation to trees ; and
 - Whether the proposal represents an appropriate location for new housing development, having regard to the policies of the development plan and the National Planning Policy Framework (the Framework).

Reasons

Character and appearance

8. The appeal site is located on the edge of the settlement and, whilst it is not the subject of a specific landscape designation, the trees within the site are protected by a Tree Preservation Order. At the time of my visit, it comprised an existing dwelling, its access and garden, the rear part of which, from the details provided, appeared to have been levelled and cleared. The area of land closer to the dwelling adjoins neighbouring gardens to either side. Fields exist to the rear and one side of the larger part of the site, with the other side separated from a residential estate by a sizeable area of trees and vegetation.
9. The evidence before me indicates that, in the relatively recent past, there was a distinction in character and appearance between the immediate rear garden of the existing dwelling and the larger area of land beyond that forms part of the appeal site. However, in the main, any such distinction no longer exists and, whilst trees remain within and to the boundaries of the appeal site, it currently appears as a relatively flat, fairly open, sizeable single parcel of land to the rear of the dwelling.
10. Although I recognise that the vegetation screening may be less effective at other times of the year, due to the existence of trees and boundary hedges, the local topography and the location of the site between and to the rear of neighbouring gardens, much of the appeal site is largely screened from wider public views, including those available from the nearby public footpaths. As a result, I concur with the conclusions of the appellant's *Landscape and Visual Impact Assessment* (LVIA) and addendum, as well as those of the Council, that the proposal would have a limited visual impact on the surrounding rural landscape or the streetscene.

¹ *Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG; Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council* [2017] UKSC 37

11. In the immediate vicinity of the appeal site, development predominantly comprises linear rows of individual dwellings facing the highway. These houses are of a variety of different designs but tend to be two-storey in scale and are set back from the highway, with relatively generous rear gardens. Although development in depth also exists nearby, due to the changes in land levels and the intervening trees and vegetation, there is very limited intervisibility between the appeal site and the more recent estate development at Long Close. As such, the immediate locality of the appeal site is largely seen as an area of relatively low density ribbon development.
12. I have had careful regard to the findings of the LVIA and its addendum. In relation to the site, although minor adverse landscape effects have been identified, these are not considered to be significant. In particular, I note that the sensitivity to change identified in relation to landscape character, due to its rural edge location and proximity to designated areas of landscape importance, is considered to be reduced due to the small scale of the development, the enclosure provided by existing trees and hedgerows and proximity to existing residential areas. However, in this particular case, I am not satisfied that the development proposed would be successfully assimilated into the urban edge of the village whilst maintaining the landscape character of the area.
13. Whilst adjacent to the settlement, it is part of the higher ground that provides a distinctive setting to the village. Due to the size and location of the larger part of the appeal site, I consider that it forms an important transitional role between the built-up part of the settlement and the open countryside beyond. Furthermore, whether or not the main part of the site formed part of the established garden of the existing dwelling, due to its context, the absence of built development and the trees and vegetation within and around it, it has a significantly closer visual and physical relationship to the adjacent open countryside than to the neighbouring dwellings and their gardens.
14. Accordingly, as well as a substantial change to the appearance of the site, I consider that the proposal would result in a significant change to its character. Even with the retention and enhancement of the trees, hedges, grassland and copse, the type and extent of development proposed would lead to a material intrusion of built form into the rural landscape setting of this part of the settlement and, for the reasons given, a marked alteration to the existing pattern of development within the immediate vicinity.
15. Furthermore, due to the configuration of the site and the resulting limited visual and physical connectivity to other development within the area, the proposal would not integrate positively with the existing settlement, but would appear as a detached pocket of development within an otherwise rural setting. Consequently, overall, I find that the development proposed would result in an unsympathetic addition which would detrimentally alter the character of the local area.
16. Notwithstanding the concerns expressed, I consider that a suitably designed replacement dwelling and the access arrangements proposed for the site frontage would have an acceptable impact on the streetscene and the character of the area. Furthermore, I note that it is intended to retain and protect most of the protected trees on site and there is nothing substantive before me to demonstrate that the development of the site for five dwellings would be

incompatible with this aim. However, neither of these matters, either individually or cumulatively, would address the harm identified above.

17. In addition, whilst I am mindful that the appeal proposal is in outline, details of the design, appearance and landscaping of the development are not matters that would successfully resolve the harm identified. Similarly, whilst I have considered the layout as proposed, even if I were to treat this as indicative, this would not lead me to alter my findings on this issue.
18. Consequently, for the reasons given, I conclude that the proposal would be significantly harmful to the character of the area. It would not be in accordance with the *Charnwood Local Plan Core Strategy 2015* (CS) Policies CS2 and CS11 and the *Borough of Charnwood Local Plan 2004* (LP) Policy EV/1, where they collectively seek to protect local character, including in relation to landscape and the countryside. It would also not meet the aims of paragraph 17 of the Framework, to take account of the different roles and character of different areas.

Location

19. Anstey is defined as a Service Centre within the CS and it is argued that there is no need for the proposal, as the quantum of development proposed within the settlement limits for Anstey has already been reached. However, in this respect, I note that CS Policy CS1 identifies a minimum requirement for new housing within and adjoining the settlement. As such, I consider that the extent of previous development or existing commitments should not be an overriding matter in this appeal. Nonetheless, I am also mindful that paragraph 4.45 of the recently adopted CS also indicates that it is anticipated that future development would take place within the settlement boundary of Anstey.
20. The LP Proposals Map identifies Limits to Development, as set out in LP Policy ST/2, which seeks to prevent development beyond those limits. Whilst part of the proposal would replace an existing dwelling, for the reasons given above and in relation to LP Policy ST/2, the main part of the appeal site is situated outside the defined limits of the settlement. Whilst not in a defined 'Area of Separation', it is in a location identified as countryside within the development plan. Within such areas, LP Policies CT/1 and CT/2 generally seek to prevent new residential development unless specific criteria are met.
21. It is not a matter of contention that the Council can identify more than a five year supply of deliverable housing land and the appellant accepts that the tilted balance in paragraph 14 of the Framework would not therefore be triggered in relation to paragraph 49 and housing supply. Furthermore, the CS is a recently adopted part of the development plan and, overall, I consider that full weight should be given to its policies. However, it is argued nonetheless that the Limits to Development identified on the Proposals Map and the LP approach to new housing development are out-of-date and not consistent with the aims of the Framework where it seeks, amongst other matters, to boost significantly the supply of new housing. In this respect, I have had regard to the previous appeal decisions drawn to my attention that consider this matter.
22. Whilst the Framework does not refer to the use of settlement boundaries, I consider that such an approach is not necessarily inconsistent with it. In this case, the settlement limit provides an effective mechanism to implement the

spatial distribution of housing identified as required within the CS. It would seem to me that the underlying purposes of the defined settlement limit is partly to protect the countryside, but also to ensure that development occurs in appropriate locations that are reasonably accessible to local services and facilities and where the development will sustain existing local communities.

23. In these respects, I consider LP Policy ST/2 to be broadly consistent with the aims of the Framework. As a result, notwithstanding its age and having regard to paragraph 215 of the Framework, I give it significant weight. However, I consider that the highly restrictive approach of LP Policies CT/1 and CT/2 is not fully consistent with the aims of the Framework in relation to rural housing and, consequently, in respect of the issues in this appeal, I give them only moderate weight.
24. For the reasons given, I find that the proposal would not accord with the approach identified within the CS in relation to CS Policy CS1, to which I have given full weight, and would be contrary to LP Policies ST/2, CT/1 and CT/2, to which I have given significant or moderate weight. I have also found above that the proposal would be contrary to other development plan policies. As such, overall, I conclude that the development proposed would not accord with the development plan as a whole.
25. Paragraph 196 of the Framework confirms that the planning system is plan-led. Planning law requires that proposals must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is one such consideration.
26. In this particular case, the proposal would contribute to meeting identified local housing needs and would be located within reasonable proximity to a range of local services and facilities. The development would be likely to result in some support for those services, both during construction and following occupation. Given the overall scale of development proposed, these benefits would be likely to be relatively modest. Nonetheless, having regard to the general support within the Framework to such development, I give them moderate weight.
27. The three roles of sustainable development are mutually dependent. Paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly. Elements of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also includes 'seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life'.
28. I have found above that the proposal would cause significant harm to the character of the area. For the reasons given, I consider that this harm would significantly and demonstrably outweigh the relatively modest benefits of the scheme, including its contribution to housing supply. Overall, therefore, I conclude that the proposal would not represent sustainable development and would not be an appropriate location for the development proposed.

Other matters

29. Within the appeal submissions, the Council has also raised concerns in relation to the housing mix proposed. In addition, a number of other concerns have also been raised locally, including in relation to access, drainage, living

conditions and ecology. However, given my findings above, it is not necessary to consider these issues further as, even if I found in favour of the appellant on these matters, this would not address the harm identified.

30. My attention has been drawn to a previous appeal decision on the site. I do not have full details of that proposal or the background to that decision, or those of the various other decisions which have been drawn to my attention. However, from the information available to me, these other developments would appear to be materially different in their overall scale and, in many cases, their location. As such, they do not appear to me to be directly comparable to the scheme before me, which I have considered on its merits and in light of all representations made. Furthermore, in relation to policy context, whilst I have taken these previous decisions into account, I am mindful that they predate the recent judgement referred to above. In any event, none of them leads me to alter my findings on this appeal.

Conclusion

31. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

A Napier

INSPECTOR