



Appeal Decision

Site visit made on 29 March 2019

by Rebecca Thomas MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th July 2019

Appeal Ref: APP/Z2830/W/18/3213262

24 Church Lane, Brafield on the Green, Northampton, NN7 1BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against refusal to grant planning permission.
 - The appeal is made by Mrs S Brockwell against South Northamptonshire Council.
 - The application Ref S/2018/1082/FUL, dated 2 May 2018, was refused by notice dated 21 August 2018.
 - The development proposed is the development of two detached dwellings.
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Decision

1. The appeal is dismissed.

Procedural Issue

2. The appellant is listed above as Mrs S Brockwell as shown in the planning application form. I note that the appeal form lists the appellant as Mr J and Mrs S John and Sheila Brockwell. I am satisfied that the appellant has the authority in order for the appeal to proceed.

Main Issues

3. The main issues are whether the proposed development would:
 - provide a suitable location for housing;
 - preserve or enhance the character or appearance of the Conservation Area; and
 - provide acceptable living conditions for the occupiers of 26 Church Lane (Number 26) by way of privacy, visual impact and outlook.

Reasons

Suitability of the location

4. The Council considers it can demonstrate a 5 year supply of deliverable housing and this does not appear to be a matter of dispute between the parties. Based on the evidence before me, I consider the policies for the supply of housing are up to date.
5. Policy R1 of the West Northamptonshire Joint Core Strategy 2014 (CS) states that once the housing requirement for the rural areas has been met, there are criteria that need to be fulfilled if further housing development is to be permitted. There is nothing to suggest that Policy R1 is not engaged and this not an apparent matter of dispute between the parties.

6. The criteria as set out in policy R1 expect development proposals to provide i) environmental improvements on a site including the re-use of previously developed land or ii) supporting local services which are under threat. The criteria go on to list requirements for iii) an effective community involvement exercise prior to the planning application; iv) a rural exception site; v) agreement through an adopted neighbourhood plan.
7. The Council has included an appeal decision at East Haddon from 2016¹, which considers the application of policy R1. The Council state that this appeal decision followed a High Court order which quashed a previous decision due to the improper application of policy R1. Whilst I have no further information before me relating to the relevant High Court decision, I have assessed the proposal before me based on the requirements of policy R1 and given the previous Inspector's decision at East Haddon.
8. The Inspector, in deciding the East Haddon case, considered that the application of Policy R1 expects proposals to either fulfil criteria i) or ii) before then going on to demonstrate compliance with one of the remaining criteria. I have no reason to disagree with this application of this policy.
9. The parties agree that Brafield on the Green is a village that is accessible as regards local services, which I concur with. The appellant also contends that the appeal site is previously developed land, being a residential garden within a built-up area. If I were to agree, then the proposal would need to go on to demonstrate that there has been a community involvement exercise prior to the planning application, that the site is a rural exception site or there is agreement through an adopted neighbourhood plan.
10. The site is not put forward as a rural exception site (iv), nor am I aware that there is an adopted neighbourhood plan (v). The appellant has provided evidence that there has been direct engagement with the Parish Council with regard to the planning application in respect of criteria (iii). I do not consider that this demonstrates active community engagement as it appears to be more akin to the engagement with parties during the application process rather than before it as required by the policy. The policy makes it clear that this type of engagement should be prior to any application and would, in my opinion, help to direct any forthcoming planning applications. It appears to me that the engagement that took place was instead driven by the submission of the planning application. Consultation in relation to Local Plan preparation does not equate to the requirements of criteria (iii), because it is the proposal before me that is subject to the policy, not a land promotion consultation exercise.
11. The appellant has included a number of other decisions made by the Council and outside the District, however these are not directly comparable for varying reasons. Those relevant to land between 9 and 25 Church Lane are more than 20 years old and as such the policy framework was different. Other decisions relate to sites which are not located in the same village and I am satisfied that the Council or Inspector in these cases have taken into account each site specifics. Number 5 Bedford Road involved the replacement of an existing dwelling. Number 61 Bedford Road is located in an area of the village described as 'linear' by the Inspector². In that respect I consider that the appeal site differs to both these examples.

¹ APP/Y2810/W/3135439

² APP/Z2830/W/16/3145428

12. Other decisions have been provided where policy R1 is not considered by officers. In these examples, the villages involved were classified as “restricted infill villages”. Policy R1 is distinct to this, covering the “rural areas” and does not include restricted infill villages. I acknowledge that the appellant considers that Policy R1 has been applied inconsistently through the District, however, despite the provision of appeal decisions, I have been able to see numerous differences which set the case before me apart.
13. I have also considered the Hart District Council appeal decision at Crondall³ however I am not persuaded that this alters how the development plan before me should be treated, especially given the East Haddon decision. The proposal before me falls to be considered on its own merits and this is the approach which I have undertaken in coming to my decision, with regard to the totality of the evidence that has been put to me.
14. I therefore consider that the proposal does not comply with any of the criteria (iii), (iv) or (v) of CS policy R1 and is therefore contrary to that policy. As a consequence, I conclude that the proposal is not in suitable location for housing. My considerations below will also include examination of the provisions of saved policy H12 of the South Northamptonshire Local Plan 1997 (LP).

Conservation Area

15. The majority of the appeal site is located within the Brafield on the Green Conservation Area (CA). Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
16. The site is located on garden space to the rear of the existing dwellings, mostly within the village boundary of Brafield on the Green as defined by the CS. There is a large proportion of the site which appears to be former vegetable garden or allotment, orchard and possibly paddock land. The use of a small building on site was not clear, although it may well have been a shed associated with the maintenance of the land in whatever form.
17. Whilst the majority of the appeal site is located within the village boundary, I consider that its character is that of the transition between village and open countryside. The site is open and level, affording views out onto the wider countryside beyond. The appeal site provides a transition to the countryside, softening the delineation between built form and open countryside as a result of being largely undeveloped and having hedgerow boundaries.
18. I have had regard to the contribution of the appeal site to the immediate area. There is no defined settlement or plot pattern around the Green, although there is a sense of openness and spaciousness at the site given the open countryside to the rear and the adjacent allotments, where the land is free from significant development. The appeal site is visible from the playing fields and allotments, and allows views through to properties and the countryside beyond and is a part of this open character and appearance.
19. Development around the Green itself is somewhat ad hoc, with the more historic buildings with larger plots being subdivided over time through infill

³ APP/N1730/W/17/3185513

- development and conversion of existing buildings. Both parties have referred to the Conservation Area Appraisal (CAA) and, in effect, refer to a sense of openness and spaciousness in this part of the CA. The appellant says that the CAA confirms that *"...the scale and massing...is relatively fluid, though properties are not massed together..."*. In addition, the Council state that the CAA says that properties sit in relatively large plots. The major constituent of the significance of the CA is the Green itself, with development generously spaced around it.
20. From my site visit to both the appeal site and the wider CA, I agree that there is a sense of openness and spaciousness as a result of the piecemeal gradual development, with large plots remaining a feature. I consider that the openness of the appeal site at the edge of the Green contributes to this open and spacious character and appearance of the CA.
21. The proposed development would introduce new dwellings, along with the associated driveway, parking and turning. The cumulative effect of the dwellings with this associated infrastructure would detract from the site's contribution to the significance of the CA. The proposed dwellings would increase the density of development and the sense of enclosure of this part of the CA.
22. The proposed development would include the loss of hedgerow along the frontage to the Green. It would also remove the spacious characteristics of the site and would result in a more urban grain of development which is not characteristic of the CA. The proposed plots would not reflect the pattern of development in the area, in particular the spaciousness derived from the openness of the rear gardens. This is particularly the case given the scale and amount of the proposed development and the smaller resultant plots. This leads me to conclude that this is not an acceptable form of backland development and is therefore contrary to saved policy H12 of the LP which does not allow for residential backland development where proposals adversely affect the character of the settlement.
23. The approved single dwelling at the appeal site⁴ would result in a lesser effect due to the reduced density of development, less associated infrastructure and with the single storey nature of the building. Thus, it would not be so dominant within the CA.
24. The overall design and layout of the proposed houses clearly take cues from the local area in that they make use of traditional design and materials and have an appearance which reflects them. The appellant also refers to a lack of visibility of the site in the CA. This would not, though, address the harm that would arise by way of the loss of the spacious character.
25. I have taken into account the examples of development provided by the appellant, however, I consider that these either are not located in the Green area and so are not comparable, or are examples of conversion or re-use of former farmsteads. I acknowledge that there may be examples of closely related residential accommodation within the village, although these do not form the prevailing character and so do not override my findings on the harm to the CA.

⁴S/2018/2416/FUL

26. I note that the appellant refers to the emerging local plan, including the revision to village boundaries. However, this does not alter my conclusions on the impacts to the CA and the nature of the backland development. Whilst I accept that policy allows for backland development, this is not uncaveated and, for the reasons that I have set out, the proposal before me is not acceptable in this regard.
27. In addition to the totality of the heritage evidence before me, I have also considered the landscaping and visual impact assessment provided by the appellant. Whilst the conclusion is that there are no major adverse visual effects, there are viewpoints where there would be a medium negative magnitude of change resulting in a scale of overall importance that is considered to be moderately negative. In my opinion, the height and quantity of the buildings will result in the negative effect on the character and appearance due to the closure of the open space as seen from the Green, as well as from the allotments and play area on Church Lane.
28. I conclude that the proposal would not preserve or enhance the character or appearance of the CA, as a whole. Saved policies G3, EV1, H12, EV9 and EV10 of the LP afford protection to the character, appearance and setting of CAs. Policies H1 and BN5 of the CS also expect regard to be had to the character and density of the local area, the location and setting of the site and seek for heritage assets to be sustained and enhanced. Taking into account the above considerations, I find that the proposal does not have regard to the overall aims of these policies.
29. For the purposes of paragraphs 195 to 196 of the Framework, less than substantial harm would arise to the significance of the CA as a designated heritage asset.

Living Conditions

30. The LP seeks to protect the amenities of existing and neighbouring residents in saved policies G3 (section D) and H12 (section II). Policy H1 of the CS also expects new developments to take into account the impacts to neighbouring properties.
31. The proposals will create two new dwellings and associated garden areas in proximity to number 26. The garage for number 26 forms part of the boundary with the appeal site and immediately abuts the garden space. The garden to number 26 would face directly on to the development, with the driveway area adjacent to the boundary. The garden area is modestly sized, with the main sitting out area located close to the boundary with the appeal site. The appeal site boundary runs alongside the length of the garden.
32. Given the small size of the garden, and the proximity of the proposed dwellings to the neighbour's garden I have concerns that there would be a loss of privacy to number 26. The parties disagree about acceptable separation distances, notwithstanding this, the resultant overlooking from first floor windows into the garden of number 26 would be unacceptable. I accept that there are oblique angles, however in my opinion this would give rise to easy views into the garden and main sitting out area particularly from the first floor bedroom.
33. I have also considered the outlook and visual impacts to number 26. The scale and height of the proposed buildings would significantly alter the outlook from

number 26. I consider that this would be exacerbated particularly given the small garden space and proximity to the boundary. The addition of two-storey dwellings here would be unacceptably dominant and overbearing to the living conditions in this regard. The distances that the appellant has provided between the development and number 26 appear to be 'back to back' distances. In this instance, the relationship is more front to back due to the layout.

34. I accept that there is no right to a view, however, I consider that both my concerns described above result in unacceptable harm to the living conditions of occupiers of number 26.
35. Taking into account the above, I conclude that the harm to the living conditions of number 26 by way of privacy, visual impact and outlook would be unacceptable and at odds with the policy requirements of saved policies G3 and H12 of the LP, and CS policy H1.

Planning Balance

36. Paragraph 196 of the Framework provides for less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal. The proposed development would provide a two additional houses to housing land supply, including locally identified needs, and support, as is set out in the Framework, the Government's objective of significantly boosting the supply of homes. It would bring economic benefits too, from its construction and from the spending in the local economy of the future occupiers. It would also have access to a range of local amenities and public transport, and landscaping and planting is proposed.
37. However, these public benefits would be on a limited scale, in particular with the number of proposed dwellings, and would not outweigh the harm to the CA. They would also not address that the proposal would not be in a suitable location for housing and the harm to the living conditions of the neighbouring property that I have identified. Other matters raised carry neutral weight in my decision.
38. The Framework's economic, social and environmental objectives have also been drawn to my attention. The Framework is also now clear these are not criteria against which every decision can or should be judged. I have referred to the relevant matters they contain within my decision.
39. The proposal would also not accord with the presumption in favour of sustainable development, as is set out in paragraph 11 of the Framework, because the application of policies in the Framework that protect areas or assets of particular importance, related to designated heritage assets provides a clear reason for refusing the development proposed.

Conclusion

40. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal to the CA and the living conditions of the occupiers of number 26, as well as that it would not be in a suitable location for housing. For these reasons, I conclude that the appeal proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. For the reasons

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

Rebecca Thomas

INSPECTOR