



Appeal Decision

Site visit made on 22 July 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2019

Appeal Ref: APP/A3010/W/19/3227313

Land adjacent to Ashlea, Plantation Road, East Markham NG22 0SD

- 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 & Mrs Davies against the decision of Bassetlaw District Council.
 - The application Ref 18/01278/RSB, dated 8 October 2018, was refused by notice dated 30 November 2018.
 - The development proposed is two detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal site is suitable for the housing development proposed, having regard to the development plan and any material considerations.

Reasons

3. The appeal site has two elements, part of a rectangular-shaped grass field to the rear of Ashlea, which would be divided into two residential plots with a shared drive; and, a vehicular driveway to the side of Ashlea which connects the two plots with Plantation Road, to the southwest.
4. The proposal entails the construction of two dwellings, an L-shaped 3-bedroom bungalow with integral garage on Plot 1, and an L-shaped 3-bedroom, 2-storey house with double integral garage on Plot 2, furthest from Plantation Road.
5. The vehicular driveway to the side of Ashlea is within the Development Boundary for the settlement of East Markham¹. Around half of Plot 1, all of Plot 2 and most of the shared drive within the grass field are outside the Development Boundary of the settlement.
6. The grass field containing the appeal site has an open character, and is bounded by mature hedgerows, timber fencing and trees, except for the boundary with Ashlea. Whilst there are views of other dwellings within East Markham from the field, as would be expected given its position relative to the settlement, to the north the outlook is rural, towards a larger field and some substantial trees.

¹ As shown on the Proposals Map.

7. The appeal site is wholly within the East Markham Neighbourhood Plan (EMNP) area and following the referendum which approved the plan, I have had full regard to the Neighbourhood Plan, as part of the statutory development plan, in determining this appeal.
8. Whilst the proposal would be generally consistent with the EMNP it would conflict with Policies contained in the Bassetlaw District Core Strategy & Development Management Policies DPD (December 2011) (BDCSDMP).
9. Policy CS1 – Settlement Hierarchy of the BDCSDMP limits development within defined settlements, of which East Markham is one, to land within the Development Boundaries, subject to a number of exceptions. Policy CS8 – Rural Service Centres in the BDCSDMP supports the provision of new housing within the Development Boundary of settlements such as East Markham.
10. The application form does not describe the proposed dwellings as affordable housing, and there is no substantive evidence before me that they would be. There is also no substantive evidence before me that the Council does not have a deliverable 5-year housing supply² or that the proposal would help deliver the Council's strategy for East Markham, one of a number of rural service centres within the district. The appeal proposal does not, therefore, meet the exceptions to Policy CS1 of the BDCSDMP.
11. The BDCSDMP was adopted more than seven years ago, prior to the first publication of the National Planning Policy Framework in 2012 (the Framework). However, from the evidence, Policies CS1 and CS8 are not out of date in seeking to focus development within the development boundaries of settlements within a specified hierarchy.
12. Such an approach would help to ensure that the scale of new development is appropriate in relation to the size, function and future development opportunities of settlements within each tier of the hierarchy. It would therefore be consistent with the policies contained in the latest iteration of the Framework from 2019, which seek to deliver the sustainable development objectives³. Consequently, the *presumption in favour of sustainable development* contained in the 2019 version of the Framework⁴ is not engaged and with reference to Paragraph 213 of the Framework, I therefore give Policies CS1 and CS8 significant weight.
13. I also note that the Government's Housing Delivery Test 2018 Measurement figures (HDT figures) show that Bassetlaw delivered 141% of its housing requirement between 2015/16 – 2017/18, a total of 1,348 dwellings. The delivery of new homes within Bassetlaw is currently exceeding the Government's calculated housing requirements and has also done so over the most recent 3-year period for which information is available.
14. The appellants have suggested that the proposal could be conditioned as housing for people over the age of 55, 'which would fulfil a local housing requirement identified within the SHMAR (North Derbyshire and Bassetlaw

² The officer report states that the Council has a deliverable supply of 2674 units or 7.9 years, including a 5% buffer, against the Government's standardised method for calculating objectively assessed need (OAN).

³ Paragraph 8

⁴ Paragraph 11 d)

SHMA - OAN Update - October 2017)⁵. This document is not in the evidence before me and consequently I give this suggestion very limited weight.

15. Furthermore, I note that the appellants also refer to the proposed dwellings as 'Affordable Housing for the over 55s' and as 'Self- and Custom-Build Development' and 'Wheelchair Adapted Dwellings'⁶. None of these points are mentioned in the application form or the accompanying Design and Access Statement for the proposal that was refused planning permission by the Council.
16. Government guidance is clear that the appeal process should not be used to evolve a scheme, and that *if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application*⁷.
17. No details of the type of affordable housing proposed are provided, and as mentioned above, the need for such housing has not been established. With reference to the submitted drawings, it is also not clear how the proposed dwellings, including the 2-storey house, have been adapted for people who use wheelchairs. In the absence of any substantive evidence to support these points I give them very limited weight.
18. The proposal would not detract from the setting of the East Markham Conservation Area (EMCA), and it is likely that future occupiers would to some extent support the limited shops and services in the nearby village. However, the design and scale of the development would mean any benefits would be limited and I therefore give these points only limited weight.
19. I also note the reference to regular bus services serving East Markham. Nevertheless, the provision of seven car parking spaces for the two dwellings indicates that any future residents would be likely to use private transport to get around and I therefore give this only limited weight.
20. The proposal would be largely outside the defined Development Boundary for East Markham contained in the adopted development plan for Bassetlaw. Whilst the proposal would not conflict with the policies within the EMNP, these do not address whether development should take place outside the settlement boundary. With reference to section 38(6) of the Planning and Compulsory Purchase Act 2004, none of the points raised by the appellant to support their scheme outweigh the harm that would be caused by the proposal to the future sustainable development of East Markham and Bassetlaw, as set out in the development plan.
21. For the reasons given above, the appeal site is not, therefore, suitable for the housing development proposed and would conflict with Policies CS1 and CS8 of the BDCSDMP and with the Framework, in this regard.

Other Matters

22. The Council has not produced a Statement in response to the appellants' Statement of Case. However, this does not cause me to reach a different

⁵ Paragraph 3.1 Appellants' Statement of Case

⁶ Paragraph 5.8 Appellants' Statement of Case

⁷ Procedural Guide Planning appeals – England, 19 March 2019 – Paragraph M1.1

conclusion with regard to this appeal. I have determined this appeal on the basis of the submitted evidence, as set out above.

23. I note the dispute between the appellants and third parties regarding the access driveway to the side of Ashlea. This does not directly affect the matters in dispute and does not cause me to reach a different conclusion with regard to this appeal.
24. The appellant has drawn my attention to two appeal decisions in other local authority areas concerning development outside a settlement boundary and development where a local plan is out-of-date. I am not familiar with these appeals and in any event each appeal should be determined on its individual merits, as I have done in this case, as set out above.
25. The appellants refer to other development approvals in East Markham made by the Council, including where the Parish Council objected. I am not familiar with these proposals, and they do not cause me to reach a different conclusion in relation to this appeal.
26. I also note that the appellants received favourable pre-application advice from the Council, including regarding its 5-year housing land supply. The pre-application advice is not in the evidence before me and in any event, such advice, given in different circumstances with regard to housing land supply, does not cause me to reach a different conclusion with this appeal.

Conclusion

27. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR