
Appeal Decision

Site visit made on 24 September 2019

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Appeal Ref: APP/A3010/W/19/3233600

Hilltop Farm, Main Street, Upton DN22 0RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Michael Massarella against the decision of Bassetlaw District Council.
 - The application Ref 19/00305/RSB, dated 21 February 2019, was refused by notice dated 24 May 2019.
 - The development proposed is the erection of 4 dwellings (2 pairs of semi-detached).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the determination of this appeal are:
 - The effect of the proposal upon the living conditions of neighbouring residents as regards visual outlook and dominance; and
 - The effect of the proposal upon the character and appearance of the area.

Reasons

Living Conditions

3. The appeal site is a broadly rectangular area of open land rising gently from Main Street in the middle of the village of Upton in Nottinghamshire. According to the application form, it measures 0.12 hectares. The development proposal is for the erection of 2 semi-detached dwellings adjacent to each other facing Main Street. In front of each dwelling would be two parking spaces. To the rear of each would be a patio, a retaining wall and a small area of lawn.
4. To the side of the appeal proposals are two detached properties that face onto Main Street. The ridge line of the roof of the closest property ('Barley House') appears to be closely aligned with that of the proposed semi-detached properties. However, Barley House also projects forward several metres (in a ground floor / first floor ratio of approximately 2:1). The gable end of Barley House would be about 4 metres from the gable end of the closest of the two proposed semi-detached dwellings.
5. Advice on separation distances for new developments is set out in the supplementary planning document Successful Places: A Guide to Sustainable Housing Layout and Design (2013) (SPD) produced by the Council and

neighbouring authorities. According to the officer, the minimum distance of separation between dwellings is 12 metres. I note from the SPD, however, that this figure is for dwellings facing each other at an obtuse angle. There is no reference to a minimum distance between the side windows of adjacent dwellings, and beyond general advice that minimum separation distances should be applied according to the site conditions and context this document has no relevance in determining this appeal. Consequently, I attach little weight to its contents.

6. This end of Barley House has a side door at ground floor level and a window at first floor level in what I understand is a bedroom. There are also 2 ground floor side windows on that part of the dwelling that projects forward. These windows would look over the car parking area of the proposed development and their outlook would not be adversely affected by the scheme.
7. The Council contends that there would be a significant loss of outlook from the first-floor window. In response, the appellant states that the occupants will retain an outlook from this window, albeit a more restricted one. As I did not have access to the Barley House property, I am unable to say whether the first-floor window on the forward projecting wing is in the same room as the side window.
8. The Bassetlaw District Local Development Framework: Core Strategy & Development Management Policies DPD (2011) (CS) has not been reviewed since its adoption and is therefore out of date. However, following the advice set out at paragraph of 213 of the National Planning Policy Framework (the Framework) those policies in the CS that are consistent to one degree or other with the Framework remain relevant in the determination of this appeal (see also Paragraph 11d)ii) of the Framework). Since I find that the relevant policies of the CS are consistent with the subsequently published Framework, I attach considerable weight to them.
9. The Headon, Upton, Grove and Stokeham Final Neighbourhood Plan (2018) (NP) does not allocate any sites for housing development. The Framework advises that neighbourhood plans will only be relevant where they contain allocations to meet housing need. Thus, I attach no weight to the NP's contents.
10. I conclude that due to its proximity the development proposal would have a dominating effect upon Barley House and would significantly reduce the outlook from the first-floor side window. Thus, it would harm the living conditions of the current and future occupants of Barley House. I find, therefore, that the proposal breaches CS Policy DM4, which seeks to ensure that new development on in-fill sites respects its surroundings, and Paragraph 127f) and Paragraph 130 of the Framework, which seek to protect living conditions.

Character and Appearance

11. The village is broadly linear in form with many of the dwellings and agricultural buildings being directly accessible from Main Street. The site is a field which is partly overgrown. On the other side of the site is a large lawn within the curtilage of Hilltop Farm. The site and the lawn are bounded by waist high mature hedging. Opposite the site is a period dwelling with its gable-end facing Main Street. Within its curtilage is a farm building and a lane accessing other

properties. The village does contain some more recently constructed properties but overall it has a strong historic charm.

12. As the appellant notes, the proposal reflects the local architectural style displayed in Small Holme Farmhouse located within the village and referred to in the NP. However, in comparison to its neighbours the appeal proposal appears to be very cramped. In addition, notwithstanding the retention of most of the hedge to provide visual mitigation the parking area at the front would appear to be unduly dominant and out of place in a rural village. Indeed, it would seem to me that the proposal would have a suburban quality in a rural village setting.
13. For the above reasons I conclude that the development proposal would harm the character and appearance of the area. I find that the proposal breaches CS Policy DM4 which seeks to protect residential character and is also in conflict with advice set out in paragraphs 127d) and 130 of the Framework which seek the same.

Other Considerations

14. I agree with the appellant's contention that the site is a windfall and that the scheme can be delivered in an economically viable manner. I also agree that the location would be convenient for the local bus service and would thus allow future occupants to access local centres without a car. There would also be social and economic benefits through the introduction of new housing.
15. However, none of the above considerations dissuade me from my finding that the proposal conflicts with the development plan overall as well as with important aspects of the Framework. I note that a new local plan is in preparation and that this might identify sites for new housing in Upton in the future. Because it is at such an early stage, however, I do not attach any weight to it. Finally, whilst I note the comment that the scheme would be compliant with disabled access regulations this is not a matter that is relevant to the determination of a planning appeal.

Conclusions

16. For the above reasons I dismiss this appeal.

William Walton

INSPECTOR