



Appeal Decision

Site visit made on 17 December 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/A3010/W/19/3238407
34 High Street, Elkesley DN22 8AJ

- 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 Huspeth against the decision of Bassetlaw District Council.
 - The application Ref 19/00737/FUL, dated 5 June 2019, was refused by notice dated 25 September 2019.
 - The development proposed is a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The name of the applicant on the Planning Application form is given simply as 'Huspeth'. The appeal form and the Council's decision notice confirm that the appellant is Mr Huspeth.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether the proposal would provide acceptable living conditions for future occupants with particular regard to outlook, privacy and light.

Reasons

Character and appearance

4. The site is located within the village of Elkesley which is predominantly residential in character. The appeal site sits to the rear of the garden serving the two-storey cottage at No 34 High Street which is recognised as being a non-designated heritage asset. The area includes a mixture of property types generally set within well-proportioned plots. There are further two-storey cottages on High Street with bungalows to the rear of the site on Yew Tree Road and facing the site at Nos 1 and 2 Beech Walk. The appeal site currently has a hedgerow to the boundary with Beech Walk, a narrow cul-de-sac with a public footpath connection between High Street and Yew Tree Road.
5. The proposal would not harm the significance of the non-designated heritage asset given the scale of the proposal and its proximity to the asset. However,

the depth of the plots serving existing bungalows on the opposite side of Beech Walk are more generous and include front gardens. In contrast the proposed dwelling would occupy a position close to the boundary with Beech Walk and would appear cramped and incongruous as a result. The fenestration to the elevation facing Beech Walk would be limited to a front door and two areas of recessed brickwork which seek to replicate window positions. The lack of detailing to create an active frontage means the dwelling would not positively contribute to the character and appearance of the street scene.

6. It is not clear from the plans whether the intention would be to retain the existing hedgerow, nor has it been demonstrated that this would be possible given the proximity of the proposed dwelling. The removal of the hedgerow would further compound the harm to the streetscene.
7. To conclude, the development would have a harmful effect on the character and appearance of the area. Consequently, in this regard, the proposal would be contrary to Policy 2 (Design) of the Elkesley Neighbourhood Plan (2015) (the NP) which amongst other things requires new development to demonstrate consideration of local character in terms of building detailing and relationships between public and private spaces, drawing on local character to ensure it enhances the distinctiveness and quality of the area. The development would also conflict with Policy DM4 (Design and Character) of the Bassetlaw Core Strategy and Development Management Policies Development Plan Document (the CS) (2011) which amongst other things require development to be of a high quality of design which respects its wider surroundings including historic development patterns or building/plot sizes and forms.
8. The proposal would also conflict with Paragraphs 127 and 130 of the National Planning Policy Framework (the Framework) which amongst other things requires development to add to the overall quality of the area and be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Living conditions

9. The Council's Successful Places – A Guide to Sustainable Housing Layout and Design Supplementary Planning Document (2013) (the SPD) includes amongst other things minimum separation distances between facing habitable windows on neighbouring dwellings. A minimum distance of 21 metres (m) is given where the angle between opposing elevations is such as that between the proposed living and dining / kitchen windows to the side elevation of the proposal and neighbouring rear elevations. However, the SPD also states that the minimum separation distances should be applied reasonably having regard to the particular site conditions and context including where direct overlooking could be prevented by appropriate screening.
10. The windows serving the proposed bungalow would be situated at ground floor level and would face garden and patio areas within the site. I noted during my site visit the high panelled fencing to the boundaries of the appeal site with the remaining garden serving No 34 High Street and to the rear garden serving No 12 Yew Tree Road.
11. No 12 is a bungalow with only ground floor windows facing the appeal site. The fence to the boundary with No 12 would prevent any material overlooking

between this property and the proposed dwelling. No 34 has clear glazed first floor windows facing the appeal site. However, the plans before me indicate a distance of 21.0m would be achieved in line with the minimum requirement in the SPD. The relatively close proximity of the proposed kitchen / dining room window to the existing boundary fence would further reduce the potential for any material overlooking impact on this room in the proposed dwelling.

12. Given the above factors, the proposed frosted glass serving these main habitable rooms would not be required to protect the privacy of potential occupiers of the proposed dwelling. Consequently, conditions could be attached requiring these windows to be clear glazed and for boundary treatments of the height presently installed to be retained in order to ensure suitable means of outlook and privacy would be provided for potential occupants.
13. The Council also suggest that the proposal would not benefit from reasonable levels of daylight and sunlight having given particular regard to the lack of windows to the front elevation and the proposed frosted windows to the side elevation. I have no substantive evidence before me, for example in the form of daylight / sunlight surveys, to corroborate the Council's concern. However, having already found that frosted glazing would not be required, I am also satisfied that clear glazing would assist in the provision of suitable levels of light being provided to the respective rooms.
14. To conclude the development could provide suitable living conditions for future occupants with particular regard to outlook, privacy and light, subject to the suggested conditions. Consequently, in that particular regard, the development would comply with Policy 5 (Infill Development) of the NP and Policy DM4 (Design and Character) of the CS which amongst other things seek to protect the privacy and amenity of existing and future properties. For the same reasons, the proposal would also comply with Paragraphs 127f) of the Framework.

Other Matter

15. Whether or not the Council's appointed planning officer was satisfied with the proposal is not a matter for me to consider for an appeal made under S78 of the Act. Rather the Council's final decision and the grounds for refusal are the relevant considerations against which I have made my own assessment.
16. The appellant has referred to what they consider to be a similar development within the vicinity of the appeal site that was previously allowed at appeal. I have not been provided with any specific information in respect of the other site. In any case, I must consider the appeal proposal on its own merits.

Planning Balance and Conclusion

17. The policies of the CS have not been reviewed in the last 5 years in accordance with the requirements of Paragraph 33 of the Framework. Specifically, the policies relevant to the distribution of housing, namely Policies CS1 (Settlement Hierarchy) and CS8 (Rural Service Centres) of the CS. The Council concede that these policies are not in line with the requirements of the Framework which necessitates that local authorities plan continuously and are able to react to all future housing need both in urban and rural locations. Those particular policies have therefore been accepted as carrying limited weight and paragraph 11d) of the Framework is engaged. Planning permission should be granted

unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework when taken as a whole.

18. Paragraph 14 of the Framework states that where paragraph 11d) applies, the adverse impact of allowing development that conflicts with the NP is likely to significantly and demonstrably outweigh the benefits, provided amongst other things the NP became part of the development plan two years or less before the date on which the decision is made. In this case the NP is more than two years old and therefore the conflict of the proposal with the policies of the NP cannot on its own significantly and demonstrably outweigh the benefits.
19. The proposal would make a limited contribution to meeting the Council's housing requirements also noting that the Council suggests it can demonstrate a 7.9 year supply of deliverable housing land. It would generate a minor economic benefit through the development of the site and expenditure in local services by any future occupants. There would also be a minor social contribution if occupants were to use local facilities. I have also found that suitable living conditions could be provided for occupants of the proposed dwelling, although this is not an added benefit to be weighed in the balance, rather an expected design requirement.
20. So far as the policies of the CS and the NP referred to under the main issues seek to protect the character and appearance of the area and provide acceptable living conditions for occupants, these policies are generally consistent with the Framework. I have concluded that the proposal would result in harm to the character and appearance of the area. This is a matter which significantly and demonstrably outweighs the benefits of the proposal when assessed against the policies of the Framework as a whole.
21. For the above reasons the appeal is dismissed.

M Russell

INSPECTOR