



Appeal Decision

Site visit made on 7 January 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2020

Appeal Ref: APP/A3010/W/19/3238848

94-98 Shireoaks Road, Shireoaks, Worksop, Nottinghamshire S81 8NA

- 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 Mrs Lynnette Stevens against the decision of Bassetlaw District Council.
 - The application Ref 19/00643/OUT, dated 12 May 2019, was refused by notice dated 12 September 2019.
 - The development proposed is the construction of 4 two bedroom bungalows for sale.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with all matters reserved for future consideration. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for residential development with particular regard to flood risk;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of the occupiers of nearby dwellings with specific reference to noise and disturbance.

Reasons

Whether a suitable location for residential development

4. The appeal site is situated to the rear of three dormer bungalows on Shireoaks Road. To the rear of the appeal site is a public footpath and right of way which runs westwards from the back of the appeal site into an open grassed area to the rear of the neighbouring properties along the road. To the south of the footpath and grassed area lies the River Ryton. The main parties agree that both the appeal site and much of the surrounding land is within flood risk zone 2.

5. Policy DM12 of the Bassetlaw Local Development Framework Core Strategy & Development Management Policies DPD 2011 (BLDF) (adopted December 2011) does not generally support development on sites within Flood Zone 2 whilst other development sites remain available in sequentially superior locations within the district. This is consistent with paragraphs 155 and 158 of the National Planning Policy Framework (the Framework) which sets out national policy relating to considering flood risk. It is therefore a requirement for an applicant to demonstrate that they have considered more suitable sites that are free from flood risk for development before considering a site within a zone of flood risk.
6. I acknowledge the appellant's point that the appeal site has been in their ownership for a considerable period of time and that the sequential test would only be relevant if it was their intention to specifically purchase land in the area for development. However, the sequential test applies to all new development proposals in areas within flood risk zone 2 regardless of the circumstances relating to the purchasing of the land to be developed.
7. The Flood Risk Assessment dated 16 July 2019 submitted by the Appellant concludes that where the floor levels of proposed development on the appeal site are below a minimum level that compensation for the loss of flood plain would be required. Whilst I note the appellant's point that the proposed dwellings would have a ground floor level above the minimum set out in the Flood Risk Assessment, I have little evidence before me to show the proposed ground levels for the remainder of the site or indeed how any potential flood risk would be mitigated or any potential loss of flood plain compensated for.
8. In addition to this, the proposal would not include a sustainable drainage system which is a requirement of BLDF Policy DM12 and paragraph 163 of the Framework with the exception being cases where such a system would be demonstrably inappropriate. Furthermore, the national Planning Practice Guidance (the Guidance) also advises that new development should only be considered appropriate in areas at risk of flooding if priority has been given to the use of sustainable drainage systems¹. Policy 5 of the Shireoaks Neighbourhood Development Plan (SNDP) (made November 2016) also requires the incorporation of sustainable drainage systems within new developments in order to manage surface water run-off.
9. I note the appellant's point that the proposed roadways and hardstanding would be constructed from pervious systems using permeable materials to allow free-unconcentrated drainage of surface water and that this surface water will be discharged into the existing combined drainage system. However, the appellant has not submitted any substantive evidence to demonstrate the development of a comprehensive Sustainable Drainage Strategy for the whole site as recommended by the submitted Flood Risk Assessment.
10. Consequently, taking into account all of the factors discussed above and the evidence before me, I find that the appeal site is not a suitable location for residential development with particular regard for flood risk. The proposed development would therefore conflict with Policy DM12 of the BLDF; Policy 5 of the SNDP and paragraphs 155, 158 and 163 of the Framework which aim to reduce and, where possible, mitigate flood risk.

¹ Paragraph: 050 Reference ID: 7-050-20140306

Character and Appearance

11. The area surrounding the appeal site is predominately residential in character with the majority of properties along Shireoaks road comprising detached bungalows with front and back gardens. The dwellings along the southern side of the road (to the north and north-west of the appeal site) have generous back gardens. There is also a fenced-off grassed area to the rear of no. 92 that stretches to the riverbank to the south through which the public footpath and right of way passes, continuing to the west through a substantial open area of open grassland eventually emerging onto Shireoaks Road just beside the western boundary to no. 74.
12. The proposal would construct four new bungalows on the land to the rear of nos. 94-98 Shireoaks Road which in essence would be 'backland' development. As set out above, the established pattern of development in the area consists not only of dwellings with large back gardens but also a substantial area of open grassland through which a public footpath passes. As a result, the proposal would be at odds with the established pattern of development to the south of Shireoaks Road thereby harming the character and appearance of the area.
13. I note the appellant's point that the proposed dwellings would be screened from the highway by the existing dwellings to the north. However, they would not be screened from the south or indeed the west where they would be clearly visible by users of the public footpath.
14. I also note the appellant's submitted examples of 'backland' development that were permitted on land to the north and northwest of Shireoaks Road. However, I do not have all the details of these cases before me or the circumstances which led to those decisions being taken. In any event, the pattern of development to the north of Shireoaks Road is different to that of the south meaning that the circumstances in those cases are not exactly the same as those presented in this case which I have determined on its own merits.
15. I therefore conclude that the proposed development would conflict with Policy DM4 of the BLDF and Policy 1 of the SNDP which aim to ensure good design and protect the amenity of residents, amongst other considerations. It would also conflict with paragraph 130 of the Framework which promotes good design.

Living Conditions

16. The proposed development would be accessed from Shireoaks Road via a new vehicular entrance located between nos. 92 and 94. Concerns have been raised by the Council in relation to the potential noise disturbance that this would cause to the occupier of no. 92. At the time of my visit there was very little traffic on Shireoaks Road with no pedestrians traversing the footpath to the front of no. 92. While I acknowledge that this represents but a snapshot in time, I nonetheless consider Shireoaks Road to be within a relatively quiet residential neighbourhood.
17. The proposal is for four new dwellings which would mean that there would likely be at least four vehicles traversing this new access at certain times of day and night which would represent an increase in noise levels. The proposed

access would also run a considerable distance along the shared boundary with no. 92 meaning that the noise of the vehicles traversing it would be audible from the front and rear of the property. As a result, the proposal would result in an increase in noise that would cause disturbance to the occupiers of no. 92 thereby harming their living conditions.

18. I note the appellant's points that any potential noise disturbance from the proposal would be minor due to the presence of a detached garage between the proposed access and no. 92; that the noise would be less than that generated by existing traffic on Shireoaks Road (including buses and taking into account the distance from the lounge window); that the actual vehicular movements would be less as the proposal's future residents would be elderly; and that measures to mitigate any potential noise disturbance (including constructing an acoustic fence along the shared boundary). However, without a noise assessment being undertaken any proposed mitigation measures cannot be adequately assessed. The appellant has therefore failed to satisfactorily demonstrate that the proposed development does not cause unacceptable harm to the living conditions of neighbouring occupiers with specific reference to noise and disturbance.
19. Consequently, the evidence before me does not offer sufficient clarity and robustness to enable me to conclude that the living conditions of neighbouring occupiers would not be unacceptably harmed by noise and disturbance. I therefore conclude that the proposal would conflict with Policy DM4 of the BLDF and Policy 1 of the SNDP which amongst other aims seek to ensure that new development does not have a detrimental effect on the residential amenity of nearby residents, amongst other considerations.

Other Matters

Public Right of Way

20. Comments have been received from the Highway Authority in relation to the Shireoaks Bridleway 7 which runs adjacent along the eastern boundary of the appeal site and Shireoaks Footpath (a Public Right of Way) which crosses the appeal site in an east/west direction which have requested further details on the minor rerouting of the public right of way the appellant has proposed. However, given that I am dismissing the appeal on other substantive grounds, I have not considered this matter further.
21. I acknowledge that a letter of support for the proposal was received from the owners of no. 98 Shireoaks Road stating that the proposal would improve the area. However, this is not of sufficient weight to outweigh the harm I have identified in relation to the main issues outlined above.

Conclusion

22. The proposed development would be contrary to the adopted development plan (including the BLDF and the SNDP) and there are no material considerations indicating a decision otherwise in accordance with it. For the reasons set out above I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR