
Appeal Decision

Site visit made on 26 May 2020

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2020

Appeal Ref: APP/A3010/W/20/3246059

The Willows, Gainsborough Road, Everton DN10 5BW

- 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 Jackie Gomes against the decision of Bassetlaw District Council.
 - The application Ref 19/01241/OUT, dated 21 September 2019, was refused by notice dated 22 November 2019.
 - The development proposed is four dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Jackie Gomes against Bassetlaw District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are;
 - Whether the proposal would have an adverse effect on the character and appearance of the area;
 - Whether the proposal would have an adverse effect on the living conditions of the host property or neighbours in respect of noise and privacy; and
 - Whether there is sufficient information to assess whether there would be an adverse effect on ecology.

Procedural Matters

4. The planning application was submitted in outline with all matters reserved bar means of access. I have determined the appeal on this basis. The layout shown on drawing no. TWGRE/18/02R1 I therefore consider to be illustrative bar the details of the access arrangements.
5. The Council is currently reviewing its local plan but to date it has not progressed sufficiently for the policies to be given weight in determination of this appeal. The appeal site is also within the Everton Neighbourhood Plan area. This has been the subject of examination, but at the time of writing is awaiting a date for the referendum to take place having been agreed by Bassetlaw District Council as such, this has moderate weight in my decision.

Reasons

Character and Appearance

6. The site currently forms part of the grounds to the host property, a substantial detached house with garage, stables, manege and incomplete swimming pool building. Accessed off the southern side of the A631 Gainsborough Road it forms part of a small cluster of development extending east from the main body of the village of Everton. The main road is the dominant feature of this location, but it is interspersed with clusters of properties with spaces between creating a close relationship to the countryside. On the opposite side of the road is a large field reinforcing the impression of a rural countryside location.
7. The host property is set back from the road behind a hedge and wall which runs to the rear of the highway verge, with the access centrally located between brick walls. The front garden is laid to lawn and has a series of trees on the periphery which frame the space when viewed from the road.
8. The land to the rear, rises slightly, gently sloping up and away from the rear of the host property, on ground set above the neighbour to the east. Behind the host property the ground is also laid mainly to lawn, with a manege toward the front of the main portion of the appeal site. It is a spacious site which contributes positively to this rural location by virtue of the combination of the sense of space and the framing the trees and hedgerows provide.
9. The proposal would utilise the current access but be widened and incorporate the provision of a vision splay of 90m in each direction. The highway authority has sought the provision of a new footway and this would reflect the conditions on the opposite side of the road. This would, however, introduce a further degree of urbanisation in this rural location.
10. The front of the site is located within the Everton Conservation Area, despite the concerns I raise above no case has been presented that has suggested the scheme would fail to preserve or enhance the Conservation Area. The tests to be applied in assessing proposals in these circumstances set a higher bar and I do not consider the alterations to the access, provision of vision splays and footpath would harm the character and appearance of the Everton Conservation Area but, nevertheless are not suitable in this countryside location.
11. The rear boundary of the site is very open, and the proposal would create a form of tandem development which is not typical in this location and would be out of character with the general pattern of development, resulting in an incongruous and discordant form of development, which in combination with the urbanisation of the frontage adversely affect the character and appearance of the area. It would thereby be in conflict with Policy DM4 and DM9 of the Bassetlaw Core Strategy (CS) and Development Management Policies DPD (DPD) (2011). These policies amongst other things seek to ensure new development in and adjoining the countryside are expected to be designed to be sensitive to their landscape setting.
12. The Everton Neighbourhood Plan in policy E2 seeks to ensure that new development where demonstrated to be acceptable should adjoin the existing built form of amongst other locations, other dispersed groups of buildings. While E8 has a series of tests but key to my consideration are points 1 and 4.

As I have indicated that I consider the scheme would not be well related or respect the local landscape I find that the development would conflict with these policies which aim to protect amongst other things the character of the landscape and relate well through visual and physical linkages to the surrounding residential area.

Living conditions

13. The proposed access would pass the eastern façade of the host property and run beyond the neighbouring house and garden to the east at a distance of around 6m from each. While the host property and the neighbour both have a series of windows facing the proposed access there would be space to accommodate additional planting, or screening to assimilate the access into this area.
14. The siting and design are reserved for future consideration, however bearing in mind the available space and separation distances involved, despite the change in ground levels there is sufficient space to allow for appropriate separation distances and protect privacy and outlook in the finalised design, I do not consider therefore that this concern in respect of overlooking raised by the neighbour to the east is justified.
15. With the amount of land available and the relatively modest number of vehicular movements you might associate with four properties, I do not envisage that the living conditions of the neighbours or the host property would be harmed. Particularly when considering the proximity of the main road and the underlying noise of traffic from there.
16. I recognise it would introduce additional traffic movements above the number currently present, however I am not persuaded that this would be so excessive as to warrant a refusal of the application on this basis. I conclude therefore that I consider the living conditions of the host property and neighbours would not be adversely affected and in this respect accords with policy DM4 of the DPD and the guidance within the SPD which aim to protect residential amenity.

Ecology

17. In setting out the reason for refusal the Council have sought to rely in part on the presence of a pond to the rear of the site. While this is still shown on the location plan it was not present on my site visit, being part of the extensive grassed area behind the host property. While it is in a hollow and the shape of what was once a pond is discernible it is now assimilated into the mown part of the land to the rear of the house.
18. The appellant confirms that if deemed necessary conditions could be placed on the scheme to ensure safe working practices in the event there was any doubt about the presence of protected species, and this is supported by the ecological report and the additional comments made by the ecologist in responding to the concerns identified by the local wildlife trust.
19. The local wildlife trust in their representation expressed reservations in respect of the suitability of the survey, but this has been undertaken by a qualified ecologist who has responded since these concerns were raised clarifying the work undertaken. There is also some doubt as to whether the representatives of the trust undertook a site visit to make their own assessment of the scheme.

The Council has not provided independent expert ecological evidence to dispute the findings of the appellants ecologist and on this basis, I do not agree that there is evidence to sustain this reason for refusal. The appellant has undertaken an ecological assessment of the site and this demonstrates the scheme could be undertaken without adversely affecting local biodiversity and would accord with policy DM9 of the DPD.

Planning Balance

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications should be made in accordance with the development plan unless material considerations indicate otherwise.
21. The appellant refers to various paragraphs of the Framework and the presumption in favour of sustainable development. It is not disputed that the Council is able to demonstrate a 5-year supply of housing. However, the Council's Officer Report refers to the policies in the Core Strategy as not having been reviewed in the last 5 years. Consequently, the Council considered the application with reference to the so called 'tilted balance' set out at Paragraph 11d of the Framework. This states that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
22. Although the CS & DPD pre-date the Framework, paragraph 213 (of the Framework) states that existing policies should not be considered out of date simply because they were adopted or made prior to the Framework's publication. In addition, the main issue for determination in this appeal is the effect of the proposal on the character and appearance of the surrounding area. Therefore, the most important policies for determining this appeal are Policies DM4 and DM9 which, are consistent with the Framework. As such, the most important policies for determining this appeal are not out-of-date and paragraph 11d of the Framework is not engaged in this case.
23. The proposal would contribute 4 houses to the supply of family housing, and this would make a contribution towards economic activity during construction and a modest contribution upon occupation to the local economy. While these factors weigh in favour of the scheme, these benefits do not outweigh the harm that would arise in the event the scheme were allowed.
24. Having taken account of the Framework and other material considerations, including the benefits of the proposal, I find that overall there are no material considerations that indicate that the appeal decision should be taken other than in accordance with the development plan.

Other Matters

25. Other planning applications have been referred to in support of the appellants case. The south side of Bawtry Road is materially different being a linear scheme fronting the main road, while the single dwelling on Chapel Lane is within the defined development boundary for the settlement and as such the landscape impacts would be materially different. I have not been provided the full details for the reserved matters for 5 dwellings on land off Mattersey Road but in any event each application must be considered on its individual merits in line with the policies at the time.

26. Neighbour objections in respect of floodrisk, unsafe access, pedestrian safety, and lack of foul water capacity were not raised by the main parties as elements which in themselves merited reasons for refusal. As I have found harm in respect of the main issues these matters do not need to be considered further.
27. The pre application advice which was offered, came at the time when it was proposed to allocate sites through the Neighbourhood Plan process, this has now been changed following examination as such the change in approach from the Council is understandable and the appellant would have been aware of this at the time the application was submitted having been involved throughout.
28. The Everton Neighbourhood Plan has progressed since the Council considered the application and the weight that can now be attributed to the policies within it, I regard as moderate, but they do not yet have the full weight that can be attributed to the policies of the CS and the DPD which make up the Development Plan.
29. In setting out the case for the appellant, reference was also made to the fallback position, which would allow for the completion of the swimming pool building. Nevertheless, this is a materially different proposition to 4 new dwellings in both land use terms and the visual effects this would have on the location. It would not justify the proposal before me.

Conclusion

30. The appeal is dismissed.

Edwin Maund

INSPECTOR