



Appeal Decision

Site visit made on 22 July 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2020

Appeal Ref: APP/X2410/W/20/3252732

237 Bradgate Road, Anstey LE7 7FX

- 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 Casswell against the decision of Charnwood Borough Council.
 - The application Ref P/20/0002/2, dated 28 November 2019, was refused by notice dated 9 April 2020.
 - The development proposed was originally described as 'A re-submission of application P/18/2410/2, which was a full application for the demolition of the existing property and the erection of a single storey detached dwelling. New vehicular access way and associated landscaping.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would represent a suitable location for housing, and the effect of the proposal on the character and appearance of the area.

Reasons

Location for housing

3. The appeal relates to a dwelling on the northern side of Bradgate Road which stands within a narrow, deep plot which connects to a large, roughly square piece of land at the rear. The proposal would see the existing dwelling demolished and a new dwelling constructed within the land at the rear.
4. The development plan for the area comprises the Charnwood Local Plan Core Strategy (2011-2028) (November 2015) (the CS) and saved policies of the Borough of Charnwood Local Plan 1991-2006 (January 2004) (the BCLP).
5. Policy CS1 of the CS sets out the settlement strategy for the Borough, where 13,940 new homes are provided for between 2011 and 2028. Around 10,500 homes are to be directed to the Leicester Principal Urban Area and the towns of Loughborough and Shepshed, mainly through planned urban extensions. Anstey is one of seven Service Centre settlements which follow in the hierarchy, for which Policy CS1 sets out that the Borough will plan positively, including by providing for at least 3,000 new homes within or adjoining these settlements, by safeguarding services and facilities and by responding

- positively to sustainable development which contributes towards meeting the development needs of the Borough.
6. The supporting text elaborates on the expectations of Policy CS1 insofar as it relates to Service Centres, stating that at the time the CS was adopted there were commitments for around 3,500 homes in such settlements and that this was sufficient to meet the levels of planned provision. Accordingly, the supporting text states that the Council only expects to see small scale windfall developments within settlement boundaries between 2014 and 2028. The proposal would be outside the settlement boundary, and would not amount to a windfall site in any event as there would be no net gain in dwellings. As such, it would conflict with the settlement strategy for Anstey set out under Policy CS1.
 7. The proposal would also conflict with Policy CT/1 of the BCLP, which seeks to limit development within the countryside to certain types, none of which would apply to the proposal, though I recognise this policy takes a more restrictive approach to rural development than the National Planning Policy Framework (the Framework) and is outdated to a large degree by Policy CS1, which limits the weight of this conflict. There would also be conflict with saved Policy ST/2 which seeks to confine built development to allocated sites and other land within the limits to development. Saved Policy CT/2 is cited on the Council's decision notice, but this relates to development acceptable in principle in the countryside under Policy CT1, and so is not relevant to the proposal.
 8. The Council indicates that it can demonstrate a five year supply of deliverable housing land and this is not disputed by the appellants. Accordingly, the 'tilted balance' of Paragraph 11(d) of the Framework would not be engaged on this basis. However, the appellants argue that Paragraph 11(d) is engaged in any event due to the policies which are most important for determining the application being out of date for other reasons, including that saved Policy ST/2 is more restrictive than Policy CS1 as the latter allows for development adjoining the settlement.
 9. In my view, the aforementioned policies CS1, CT/1, ST/2 and also Policy CS25 which reflects the Framework's presumption in favour of sustainable development are the most important policies in this case. Recent appeal decisions considering similar arguments have been put to me, and I agree with the Inspectors in the recent appeals at Sileby¹ and East Goscote² that Policy CS1 is the most important policy, being the most recently adopted and which sets out the development strategy for the Borough, and thus of the greatest importance for determining the application. This policy carried full weight at the time of the adoption of the CS, even though it relies in part on settlement boundaries identified by saved LP Policy ST/2 which only sought to plan for housing to 2006, as there were sufficient housing commitments in place for the Service Centres at the time the CS was adopted.
 10. Therefore, despite the age of the settlement boundaries, they still hold relevance to the application of the spatial strategy and on the evidence before me have not proven an impediment to achieving the housing growth set out under Policy CS1, and the indication is that development beyond the boundaries is not necessary at the present time to achieve the overall spatial strategy. Therefore, whilst saved Policies CT/1 and ST/2 no longer attract full

¹ APP/X2410/W/19/3220699

² APP/X2410/W/18/3214382

weight, they are not entirely inconsistent with Policy CS1 and do not undermine application of the spatial strategy. Overall, I find that Policy CS1 carries the greatest importance in this case and attracts full weight and I consider the 'basket' of most important policies as a whole to be not out of date, in line with the findings of the Inspectors in the aforementioned appeals, which reflect recent case law³, and to which I accord more weight than the decisions referred to me by the appellants which precede this judgement. Consequently, Paragraph 11(d) of the Framework is not engaged, nor is Policy CS25.

11. I acknowledge that the dwelling would not constitute an 'isolated home' in the countryside within the meaning of the Framework, given its proximity to dwellings on Bradgate Road. However, given the strategic aims of Policy CS1 have been met, it would represent an unnecessary incursion into the countryside, particularly in view of the fact that there would be no net gain in dwellings, and given the existing dwelling stands within the settlement boundary and as part of the established built form along Bradgate Road.
12. For these reasons, I conclude that the proposal would not represent a suitable location for housing, and would conflict with the aforementioned aims of the settlement strategy as expressed by Policy CS1 of the CS and through Policies CT/1 and ST/2 of the BCLP.

Effect on character and appearance

13. Development extends along both sides of Bradgate Road as it leads out of Anstey. On the northern side, detached dwellings and dwellings within short terraces occupy long, narrow plots with undeveloped countryside to the rear. The dwellings themselves differ in form and scale, and there is a stepped front building line around the appeal site due to the curve in the road. However, there is consistency in terms of the narrow width of plots and the resulting close positioning of dwellings along the road and, overall, there is a strong and well defined linear pattern to development along Bradgate Road.
14. I have had regard to the Landscape Statement (LS) submitted by the appellants, and to the Landscape Sensitivity Assessment of SHLAA Sites (2019) which ascribes the appeal site a sensitivity of low-medium in a development scenario for 2-3 storey residential housing. I accept, having seen that the site is contained within the landscape by a screen of trees to all sides, which is indicated to be reinforced by new planting, that the proposal would not be prominent in the wider landscape or have a significant adverse effect on the Rothley Brook character area or wider Charnwood Forest Landscape Character Area in which the appeal site is located.
15. Whilst the site is not indicated to form part of a valued landscape per Paragraph 170 of the Framework, this paragraph states that planning decisions should contribute to the local environment by recognising the intrinsic character and beauty of the countryside. The proposed dwelling and detached stable block would be located a significant distance behind existing development, beyond the rear gardens of adjoining properties. The backland positions of the dwelling and stables would be visible from neighbouring rear gardens, as would the proposed driveway and parking areas, creating an extensive area of buildings and domestic curtilage in place of open countryside. Seen from neighbouring gardens, the development would appear as a

³ Wavendon Properties Limited v SSHCLG and Milton Keynes Council [2019] EWHC 1524 (Admin)

conspicuous and discordant expanse of built form separate from and disrupting the existing pattern of development and the continuity of the open countryside.

16. I acknowledge that the building has been designed to reference the shape and materials of traditional stone barns in the vicinity, and subject to the standard of stonework to the façade, such an appearance could be achieved, in line with the recommendations of the Charnwood Forest Landscape & Settlement Character Assessment 2008 (and as updated 2019). However, the plans indicate that the dwelling would occupy a considerably larger footprint than those of dwellings on Bradgate Road. I recognise the buildings would not be significant in height, but at some 27 metres (m) wide and 21.5m deep, the bungalow would be a substantial, sprawling building, with the expansive scale of the proposal added to by the presence of the stable across the site, itself substantial in size at 16m by 13m, and the access road and parking areas in between. In my view, the traditional approach taken to the design would not offset the disproportionate scale of the overall development which would fail to reflect that of the surrounding built form.
17. The appellants also seek to draw comparison with a development approved at appeal further along Bradgate Road at the end of the existing linear development.⁴ However, I am not furnished with detailed plans of this scheme to ascertain if its design is comparable to that before me but, in any event, I note the Inspector's conclusions that it was considered to form a 'gateway feature' at the entrance to Anstey, and would generally form part of the linear pattern of development, so differing from the proposal before me.
18. The appellants also refer to the development at Long Close as evidence of backland development in the area. However, this is a significant development of some 50+ houses which has established its own character and is adjacent to development on Dale Close as well as being to the rear of development on Bradgate Road. I do not find this development to be comparable to a single dwelling set behind and some distance away from the nearest dwellings, which would harmfully interrupt the established linear pattern of development and would be an incongruous form of development in the open countryside.
19. Moreover, the demolition of the existing dwelling and creation of an open access and long driveway would visibly interrupt the consistent rhythm of development to the detriment of the street scene. I recognise that the entrance would not be of the same size or prominence as that proposed to serve a scheme of 19 dwellings on the land which was dismissed at appeal in 2016⁵. Nonetheless, the resulting gap in the otherwise tightly set built form, and visibility through to the development at the rear, would harm the pattern of development and established character of the area. References to similar entrances in the appellants' LS are to properties in Newtown Linford and though not far away, they are clearly within a different settlement and not part of the immediate character of the appeal site.
20. For the reasons given, therefore, the proposal would significantly harm the character and appearance of the area, in conflict with Policies CS2 and CS11 of the CS, which require development to respect and enhance the character of the area, having regard to scale, density, massing, height, landscape, layout, materials and access arrangements; and to protect landscape character and

⁴ Appeal Ref: APP/X2410/W/18/3204941

⁵ Appeal Ref: APP/X2410/A/14/2227518

reinforce sense of place and local distinctiveness. The proposal would also conflict in general terms with saved Policy CT/14 of the BCLP, which permits replacement dwellings outside the limits to development subject to certain criteria, including that the replacement dwelling represents only a modest change in the size of the original property, and if sited elsewhere in the curtilage has a less damaging visual impact. The proposal would also conflict with the Framework's recognition of the intrinsic character and beauty of the countryside.

Other Matters

21. The Council did not oppose the proposal in respect of the effect on the living conditions of neighbouring occupants in terms of dominance, overlooking or loss of light, given the distance of the dwelling from neighbouring dwellings and their gardens. I have had regard to the concerns raised by the adjoining neighbour about noise and disturbance from use of the driveway. However, the proposal would still serve a single dwelling and would not significantly intensify the level of vehicular access compared to what is possible at present. The driveway would also be located to the centre of the site, rather than immediately next to the boundary. Overall, on the evidence before me, I am satisfied that the proposal would not lead to harmful noise and disturbance to neighbouring occupants.
22. The proposal would not result in a net gain of dwellings and no tangible social benefits would therefore arise. Whilst I accept that the dwelling could be built to a high standard and incorporate energy saving measures, this would be offset to a large degree by the environmental cost of demolishing the existing dwelling and disposing of the waste. As such, I ascribe very limited weight to potential environmental benefits of the scheme. There would be economic benefits from the construction of the new dwelling, but these would be temporary and therefore attract only limited weight.
23. No harm has been identified by the Council in respect of impacts on ecology, highway safety or flood risk, subject to recommended conditions in some cases. However, a lack of harm in these respects is a neutral factor in the planning balance.

Conclusion

24. In light of my findings above, the proposal falls to be determined against the development plan, taking account of other material considerations. In my judgement, the limited benefits of the proposal, taken together, would not amount to material considerations which would outweigh the identified conflicts with the development plan, to which I afford significant weight, and would not justify a decision being made other than in accordance with the development plan, taken as a whole.
25. Therefore, the appeal is dismissed.

K. Savage

INSPECTOR