
Appeal Decision

Site visit made on 30 June 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/H0928/W/20/3249785

Land between Sandie Brig and Traemar, Brampton CA16 6JS

- 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 Messrs Cannon against the decision of Eden District Council.
 - The application Ref 19/0601, dated 14 August 2019, was refused by notice dated 11 October 2019.
 - The development proposed is outline application for four dwellings with all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On the original application form the site address did not include a postcode. In the interest of clarity and precision, I have added a postcode to the site address in the banner heading above.
3. The application is for outline planning permission, with all matters reserved for future consideration. An indicative site layout is submitted with the application and I have taken this into account only in so far as determining the acceptability, in land use principle terms, of erecting up-to four dwellings on the site.
4. The proposal has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations and is considered not to be EIA development. An Environmental Statement is therefore not required.
5. The Appellant has raised concerns regarding the Council's handling of the case, and in particular with regard to a perceived failure by the local planning authority to work positively or proactively with the Appellant. However, this is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case.
6. Since the appeal has been lodged the Council have adopted the Housing Supplementary Planning Document (April 2020) (SPD). As a result, I have afforded the SPD due weight in the determination of this appeal, and as the Appellant has referred to the SPD in their final comments, I do not consider that any party will have been prejudiced by my doing so.

Main Issues

7. In the context of the above the main issues are:

- whether the proposal amounts to an acceptable form of modest infill development having regard to the development plan for the area and, if not, whether there are other material considerations which outweigh any identified conflict with the development plan for the area when considered as a whole;
- the effect of the proposed development on the rural character of Brampton; and
- the effect of the proposed development on highway safety.

Reasons

Whether modest infill development

8. Policy LS1 of the adopted Eden Local Plan 2014-2032 (ELP) sets out a locational strategy for new development in the district using a settlement hierarchy. It places Brampton within the Smaller Village and Hamlet category where new housing development will be permitted on greenfield sites only, in accordance with the local connection criteria defined in Appendix 6. It also states that all development should be of a high-quality design and restricted to infill sites, which fill a modest gap between existing buildings within the settlement and have a defensible boundary. The policy does not define what it considers a 'modest gap' is or what would constitute a 'defensible' boundary.
9. Policy HS2 of the ELP sets out the more detailed requirements for the provision of housing in Smaller Villages and Hamlets stating that permission will be given for housing of an appropriate scale, which reflects the built form of adjoining and neighbouring development to the site and the service function of the settlement subject to meeting a number of criteria, including: that development is restricted to infilling; that the dwellings do not have more than 150 m² of gross internal floorspace and are on a greenfield site; and that a condition or legal agreement is applied restricting occupancy to only those meeting the local connection criteria in Appendix 6 to the plan.
10. The SPD specifies that in most cases modest infill development within Smaller Villages and Hamlets is considered to be development that would fill a gap in an otherwise continuous built frontage of not more than two dwellings. It also states that the proposals should be assessed in the context of the character of the settlement they are in, the scale of the proposal in relation to the number of existing dwellings in that settlement, the length of the site and the size of the overall site area and that this should be done on a case by case basis.
11. I consider that infill development is normally associated with the completion of an otherwise substantial built up frontage of several buildings or at the very least, the consolidation of a largely built up area. The appeal site is a greenfield site located between two rows of existing detached dwellings which constitute an otherwise substantial built-up frontage which the proposal would complete. There is also a severe slope to the rear boundary of the site which runs along its entire length thereby separating it from the more open landscape beyond it. As a result, I consider that the appeal site has a clear and 'defensible' boundary and that the proposal would therefore be infill development.
12. With regards to whether the gap proposed to be infilled would be a modest one, from the evidence before me, the indicative proposal would provide up to four dwellings within a settlement that according to the Council has approximately

forty-five dwellings in total. Consequently, the proposal would represent an increase in the total number of dwellings within the village of approximately 9%. The Council have stated that permission has recently been granted for other proposals that will potentially provide up to nine additional dwellings, which would be an increase of approximately 20% which combined with the proposal would represent a 29% increase.

13. However, even so, the proposal when assessed in isolation both in terms of the number of dwellings to be provided as a proportion of the total within the village and the size of the site to be developed relative to the size of the village as a whole, would in my view represent modest infill development when considered on its own merits in accordance with Policies LS1, HS2 and the SPD. Furthermore, the fact that other residential proposals have been granted presumably means that the Council have previously accepted the principle of smaller residential development of approximately four to five dwellings in the village in compliance with Policies HS2 and LS1.
14. Moreover, I consider a proposed density of approximately 20 dwellings per hectare to be appropriate given the appeal site's location in a smaller rural settlement as this would appear to reflect the density of the other dwellings nearby and while I note that the size of the proposed dwellings would be slightly smaller, their gross internal floorspace would not exceed 150 m² in accordance with Policy HS2.
15. The Appellant has also accepted the need for the imposition of an appropriately worded condition restricting the occupancy of the proposed dwellings to people with a local connection to the area in accordance with Appendix 6 of the ELP as per Policies LS1 and HS2. They have also stated that the existing Public Right of Way to the north west of the site would be maintained.
16. I therefore conclude, on this main issue, that the indicative proposal amounts to an acceptable form of modest infill development having regard to the development plan for the area. Consequently, it accords with Policies LS1 and HS2 of the ELP which aims to ensure that new development is focussed in sustainable locations and that it is of an appropriate scale, which reflects the built form of adjoining and neighbouring development and the service function of the settlement.

Effect on the rural character of Brampton

17. The appeal site is situated near to the north western end of Brampton a predominately residential village set within a wider rural landscape. Indeed, to the north and east of the appeal site there are substantial areas of open agricultural land. The existing development pattern for the housing within the village largely consists of buildings in a linear pattern being clustered around the road network with agricultural fields surrounding them. Whilst the village is predominately residential, I consider its character to be intrinsically rural. To the rear of the appeal site there is a steep slope with the land dropping sharply to the north east towards Brampton Beck where there are many mature trees with more open agricultural land beyond them.
18. As highlighted above, I consider that the severe drop in land level to past the rear site boundary forms a clear, definitive and defensible boundary which broadly aligns with the rear boundaries and building lines of neighbouring properties. Consequently, given the design, scale, mass, form, layout and location of the proposed dwellings, and the fact that they would not project past this boundary, I consider that the proposal would represent an appropriate addition to the street scene in this part of the village and that it would therefore also not represent a discordant intrusion into the open countryside.

19. I also consider that the proposed development would be in keeping with the established development pattern at this end of the village and that the design of the proposed dwellings would be in keeping with those in the surrounding area thereby positively contributing to the identity and character of the area. While I acknowledge that the appeal site is currently an area of open space, it is not designated or protected as such. Accordingly, the proposed development would be in scale and keeping with the existing landscape character and appropriate to its surroundings taking into account the form of the settlement and its buildings within their landscape setting.
20. I therefore conclude, on this main issue, that the indicative proposal would not result in harm to the rural character of Brampton. Consequently, it would be in accordance with Policies ENV2 and DEV5 of the ELP which aim to protect and enhance landscapes and ensure that the design of new development reflects local distinctiveness, amongst other considerations.

Highway Safety

21. According to the Appellant's statement the proposed vehicular access would utilise a shared access point with the required visibility splays provided for a 30-mph zone. In their statement, the Council have estimated that the visibility splays shown on the revised plan measure approximately 35 metres and that the required visibility splay would be approximately 60 metres. The Manual for Streets sets visibility standards for use at junctions and according to my estimation, this would mean that for an area with a 30-mph speed limit, the required visibility splay (y-axis) would be approximately 43 metres.
22. However, whilst the revised plan submitted by the appellant (drawing no. 010 revision b) appears to show proposed visibility splays, it fails to provide details of their measurements. The Appellant has also not submitted any other substantive evidence to show the current levels of traffic on the road or indeed how fast the vehicles usually travel in this area. As a result, I have no convincing evidence to show that the proposed vehicular access would achieve the visibility splays required for it to provide safe ingress and egress of vehicles to and from the proposed dwellings.
23. With regards to on-street parking, at the time of my site visit (approximately 18:30), I observed that several cars and one van were parked on the side of the narrow road outside of various properties nearby and opposite the appeal site, and whilst what I observed was but a snapshot in time, I consider that there is a demand for on-street parking in the vicinity of the proposed access, even though this would likely be less at other times of the day. Additionally, some of the properties opposite the appeal site appear to have no alternative forms of parking which suggests that this demand is constant. Furthermore, according to the Council's statement, the strip of road verge in front of these properties, with a width of approximately 1 metre, is in private ownership which suggests that it is used primarily for on-street parking which only adds to the apparent permanence of this demand.
24. Consequently, given the likely level of on-street parking opposite the proposed vehicular access, I consider that it would make it difficult for vehicles to safely access the proposed dwellings given the increase in traffic that the proposal would generate. Furthermore, as the Appellant has not submitted any substantive evidence to show how this would be adequately addressed, or indeed if it could be addressed, and consequently, I consider it very likely that the proposal would have an adverse impact in this regard.

25. While I acknowledge the appellant's point that they have been involved in ongoing discussions with the Highway Authority (HA) with the aim of resolving any potential highway safety issues arising from the indicative proposal, I have no evidence before me indicating their outcome apart from the Council's statement which indicates that the HA would still not be in a position to support the appeal scheme. Moreover, whilst I also acknowledge that the appeal scheme is indicative and that highway safety issues could potentially be resolved at reserved matters stage, given the considerations above, I also cannot be certain that this would be the case.
26. Accordingly, in the context of the above, I consider that the proposal would have a negative impact on highway safety. I therefore conclude, on this main issue, that the proposed development would materially harm highway safety in conflict with Policy DEV3 of the ELP, which aims to ensure the safety of road users, amongst other considerations.

Other Matters

Proximity to SSSI and SAC

27. The site is located approximately 50m upslope from Brampton Beck, which is part of the River Eden & Tributaries Site of Special Scientific Interest (SSSI) and the River Eden Special Area of Conservation (SAC), which are designated sensitive areas as defined by the EIA Regulations. However, the Council have not raised any concerns in relation any potential impact on the SSSI and SAC arising from the proposal and based on the evidence before me¹ and my observations while on site, I have no reason to disagree.

Other Appeal Decision and Approved Development Proposals

28. A recent appeal decision (Appeal Ref APP/H0928/W/19/3239768) has been cited by the appellant in support of the appeal proposal. However, the circumstances are not exactly the same as the appeal scheme, with the site already having its own access from the public highway and there being no objection from the Highway Authority.
29. The appellant has also cited other examples of residential development that has been permitted by the Council in order to demonstrate that a precedent has been set for permitting this type of development in the area. However, I am not aware of the particular circumstances in those cases and so cannot be sure that they represent a direct parallel to the appeal scheme.
30. In any event I have determined the appeal scheme on its own merits.

Conclusion

31. While I have concluded that the proposal would not conflict with the development plan with regard to the first two main issues, this does not outweigh or overcome the material harm that I have identified above with regard to highway safety and the conflict of the proposal with the development plan in that regard. Accordingly, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR

¹ SoS EIA screening opinion dated 10 June 2020