



Appeal Decision

Hearing Held on 18 November 2020

Site visit made on 23 November 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2021

Appeal Ref: APP/G2713/W/20/3248500

Land off Queen Anne's Drive, Bedale DL8 2EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mrs Fiona Coleman against the decision of Hambleton District Council.
 - The application Ref 19/02128/FUL, dated 1 October 2019, was refused by notice dated 13 January 2020.
 - The development proposed is described as the demolition of 4 bungalows and removal of trees to facilitate construction of 59 apartment extra care building with associated hard / soft landscaping and car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect that the proposed development would have upon the character and appearance of the area by virtue of its mass and design and the loss of protected trees;
 - The effect of the proposed development on the site's ecology;
 - Whether the proposed form of the accommodation is appropriate having regard to the loss of 4 bungalows; and
 - The effect of the additional traffic generated by the proposed development on the character of the immediate area.

Background

3. The appeal site comprises an elevated overgrown former quarry area connected to Queen Anne's Drive by a strip of land occupied by 4 bungalows. The former quarry has been filled in and there are now many quite large mature trees around the edge and towards the middle of the site together with brambles and other forms of undergrowth. Other than a redundant railway wagon there are no structures evident on the site.
4. In total the site measures 0.75 hectares and constitutes about half of a larger green area surrounded by housing. The other half of the green area, which is

- not within the appeal site, is taken up by allotments and more overgrown scrubland ('the allotment land'). The site lies close to Bedale town centre.
5. The Development Plan for the area comprises the Hambleton Core Strategy 2007 (CS), the Hambleton Development Plan Document - Development Policies 2008 (DPD) and the Hambleton Development Plan Document - Allocations 2010 (DPDA).
 6. The larger enclosed green area comprising the former quarry and the allotment land is allocated for housing development (BH1 - Masham Road, Bedale) in the DPDA. That allocation is for a development of around 55 dwellings, with around 40% of the units to be affordable with the allotments to be transferred to an alternative site.
 7. A new Hambleton Local Plan (HLP) is at an advanced stage of preparation having nearly completed its examination. This plan proposes to remove the development allocation from the former quarry and allotment land and replace it instead with a permissive windfall development policy (Policy HG5 - 'Windfall Housing Development').
 8. Both the Council and the Appellant concurred that the effect of this new windfall policy would be to provide continued support for the principle of residential development at the former quarry subject to design and other associated considerations. The Council stated that it was not aware of any unresolved objections into this policy. The policy is consistent with the underlying principles set out in the National Planning Policy Framework (the Framework). Nevertheless, since it is still subject to examination only limited weight should be attached to the emerging HLP.
 9. The proposed development comprises the demolition of 4 bungalows on Queen Anne's Drive and the construction of a building containing a central 2-3 storey south-facing U-shaped element and a 2-storey element including the main entrance from Queen Anne's Drive. Altogether, it would contain 59 studio, 1-bedroom and 2-bedroom affordable extra care apartments together with ancillary communal rooms, coffee shop, hairdresser and staff rooms.
 10. The new facility is being promoted by Broadacres Housing Association which currently owns a complex of single storey bungalow dwellings on Queen Anne's Drive close to the site. The proposed facility would be for occupation by those persons that meet specific criteria linked to local residence who have been assessed as having special care needs, are disabled or are over 55-years old. It would provide for independent living but would include 24-hour on-site nursing support. A s.106 agreement, dated 26 November 2020, confirming that the facility would be for the occupation of local people at affordable levels of rent has been signed by the Appellant and the Council.

Reasons

Character and Appearance

11. The extra care facility site would be surrounded by several residential cul-de-sacs (Queen Anne's Drive; Grange Close; Beechwood Close / Beechwood Court; Pinewood Grove; and Calvert Way). These cul-de-sacs are generally comprised of conventional 2-storey detached and semi-detached houses although there are some bungalows such as those adjacent to the site on Queen Anne's Drive and one close by at the top of Pinewood Grove.

12. The area generally seems to be quiet and domestic in character. Beechwood Close / Beechwood Court, Pinewood Grove and Calvert Way sit slightly below the appeal site.
13. Moving slightly further away from the appeal site, on Firby Road there is a 3-storey care home and a linear grouping of institutional buildings including the GP's Surgery, a primary school, secondary school and a leisure centre. The primary school, secondary school, GP's Surgery and the leisure centre have considerably larger footprints than conventional dwellings and although generally 2-storey they also have some 3-storey components.
14. However, except for Bedale Care Home, these buildings are in a discrete group on the other side of Firby Road and so do not form part of the setting which defines the character of the appeal site. Consequently, the character of the area surrounding the appeal site is residential in use rather than mixed use.
15. The site, including the gardens of the 4 bungalows, contains quite a large collection of individual trees and groups of trees together with hedges and shrubs. Most of the large trees are on the former quarry land. There is a line of trees quite close to the northern edge of the former quarry land running broadly west to east. There are also several trees in the south-western corner and along the southern boundary. Finally, there are some smaller trees on the eastern part of the former quarry land.
16. Many of the trees within the line, the south-western corner and the southern boundary are subject to Tree Preservation Orders dating back to the 1970s. The proposed development would result in the removal of 13 individual trees, 8 groups of trees and 2 hedgerows.¹ Some trees would, however, remain including G9 in the south-western corner and much of G6 which has been assessed as being the highest quality specimen on the site.
17. The trees form an important part of the character of the area and enhance the degree of visual separation between the dwellings on Queen Anne's Drive from those on Pinewood Grove and Beechwood Close / Beechwood Court. At middle distance viewed from the south they provide a backdrop to the dwellings located towards the top of Pinewood Grove and Beechwood Close / Beechwood Court. Closer at hand, some individually help to enhance the enjoyment of the gardens provided to occupants of 16 Pinewood Grove, Mulberry House and, to a lesser extent, Four Winds.
18. The trees also enhance the setting of the neighbouring allotment land when viewed from the hammerhead ends of Calvert Way. They can be clearly seen in between the dwellings by those travelling along Queen Anne's Drive. There are also views of the trees from Firby Road when looking along Grange Close.
19. The allocation of the site for housing in the DPDA does not necessarily imply that the Council would consent to the removal of all the protected trees. The Council has not produced a development brief that shows how the former quarry land and the neighbouring allotment land could be developed in line with allocation BH1 in the DPDA. Nevertheless, its allocation for development means that it is highly likely that some of the groups of trees and hedges

¹ The trees that would be removed are T2-T6, T8-T10, T12-T14 and T16-T17. The groups of trees that would be removed are G1-G8 (but only partially in the case of G6). Finally, Hedges H3 and H4 would be removed (see Table 4, 'Queen Anne's Drive, Bedale – Arboricultural Impact Assessment', 26 September 2019, The Environment Partnership).

would be lost under an alternative development proposal supported by the Council. Consequently, this diminishes the weight that can be attached to loss of trees caused by the proposed development.

20. The proposed 3-storey tall building would occupy an elevated site. It would be very prominent in what is an extensive residential area comprising several cul-de-sacs. Consequently, it would have a significantly adverse effect on its surroundings.
21. Due to the direction of the slope of the site, the building would not appear that much higher than the neighbouring 2-storey dwellings when viewed from Queen Anne's Drive (see computer generated image (CGI) 'View 04', p.15 of Bedale Extra Care: Addendum Report (AREV))².
22. When viewed from the east along Grange Close the top floor of the proposed building would project above the existing roof profile and would be very evident (see CGI 'View 01' at p.12 of the AREV). However, this is not a view which is experienced by large numbers of people given the limited number of dwellings accessed from this road.
23. From the 2 ends of Calvert Way (CGI 'View 02' and 'View 03'), virtually the full length of the 2nd floor of the west-wing of the proposed building would be seen above the trees and would be very prominent. Furthermore, it would be close to the site boundary giving it a rather cramped quality. The roof of the west wing would constitute an alien and dominant feature rising above the neighbouring trees to the significant detriment of the character and the appearance of the area.
24. When viewed from Beechwood Close (CGI 'View 05') the gable end of the east segment of the U-component would be very elevated. It would be clearly visible above the garage of Mulberry House, a residential property. Due to its volumetric capacity it would assume considerable bulk and have a dominating presence. The gable end of the other U-component would be largely eclipsed from the same vantage point. Finally, to all intents and purposes the proposed building would not be visible from Pinewood Grove (CGI 'View 06') which runs parallel with Beechwood Close.
25. The proposed extra care facility would have a large 3-dimensional or volumetric capacity due to its height. It is this height and mass taken in combination with what is a relatively confined site that would cause the proposal to look out of place with its immediate surroundings.
26. For the above reasons due to its scale and design the proposed development would harm the character and appearance of the area. Thus it would fail to accord with Policies CP4 and CP17 of the CS which seek, respectively, to ensure that new development is of a scale and nature appropriate to the secure the sustainability of the settlement and is of a high quality design that respects and enhances the local context.
27. It would also fail to accord with Policies DP8, DP10 and DP32 of the DPD which seek, respectively, to ensure that new development is sympathetic in scale to its surroundings, respects the intrinsic qualities of the open areas and that its scale, volume and mass contributes positively to the townscape.

² The original version of this document was submitted to support the original planning application. An extended version (AREV) was submitted following the Hearing.

28. Finally, it would also fail to accord with the advice set out in Paragraph 127c) and e) of the Framework that new development should be sympathetic to the surrounding built environment and should be of a scale appropriate to the site size.

Ecology

29. Under s.40 of the Natural Environment and Rural Communities Act 2006 there is a requirement to have regard to the need to protect biodiversity. The Appellant has prepared an ecological survey³ which is intended to provide a foundation for an ecological impact assessment.
30. The ecological survey acknowledges that a common pipistrelle bat was observed emerging from a roost located underneath a ridge tile of one of the bungalows identified for partial demolition⁴. The survey also states that, based on the habitats present, the site is considered to be of moderate suitability for commuting and foraging bats, although a dusk emergence survey and dawn return survey found no evidence of the bats in the trees.
31. To mitigate the effects of the development bat boxes would be attached to the proposed building and retained trees. The use of security lights would be avoided as far as possible⁵.
32. The ecological survey did not provide sufficient information to allow an informed assessment as to the likely effectiveness of these mitigation measures. Accordingly, and given the existence of the bat roost within the roof of the bungalow, it is impossible to discount the possibility that the proposal would harm the bat population within the confines of the appeal site.
33. Therefore, the proposal would fail to accord with Policies CP1(iv) and CP16(i) of the CS which respectively seek to ensure that new development protects biodiversity and the health of natural resources.
34. Furthermore, it would fail to accord with Policies DP31 of the DPD which seek to ensure that new development protects the local habitats and is consistent with nature conservation.
35. Finally, the proposal would fail to accord with the advice set out at paragraph 175 of the Framework that development should not cause significant harm to biodiversity.

Bungalows

36. The proposed development would result in the demolition of 4 bungalows on Queen Anne's Drive in order to free up land required for vehicular access to the appeal site. It is understood that these 4 bungalows, which are part of a larger development of similar properties owned and managed by the Broadacres Housing Association, are no longer occupied.
37. The Council's policy set out in Policy CP8 of the CS is to secure the size, type and tenure of dwellings appropriate to the housing needs of the local community. This policy is spelled out in greater detail in its Supplementary Planning Document 'Size, Type and Tenure of New Homes' September 2015

³ See p.33 Ecological Survey – Bedale Care Home (2019) E3Ecology Ltd.

⁴ See pp.6, 34 and 37 of Ecological Survey.

⁵ See p.42 of Ecological Survey.

- (SPD). That document states that 10% of the units on all new housing schemes of 10 dwellings or more should be in the form of bungalows. For a scheme of 59 units of accommodation this would equate to almost 6 new bungalows.
38. The proposed development would not incorporate any new bungalows. However, it would provide for 17 ground floor units with direct access to the communal garden via patio doors (See drawing ECB-PHS-XX-00-DR-A-22-240 P1 dated April 2019). Whilst this would not be the exact equivalent of a bungalow it would nevertheless provide a very high quality of ground floor living accommodation for elderly people.
39. Furthermore, the Council's overall objective as set out in the SPD is to secure more smaller homes, more homes for the elderly, more specialised housing and a greater choice of tenure. On this basis, the proposed extra care facility is consistent with the SPD notwithstanding the loss of bungalows and the non-compliance with the 10% target figure.
40. The proposed building would also include a coffee shop and a hairdresser. These would provide communal facilities which local people including those living in the other Broadacre Housing Association bungalows along Queen Anne's Drive could use.
41. For the above stated reasons, the proposed development would result in a greater range of types, tenure and styles of housing provision. It would therefore accord with Policy CP3 of the CS and Policy DP5 of the DPD which both seek to promote the provision of community facilities.
42. It would also accord with Policy CP8 of the CS which seeks to ensure the provision of a range of sizes, types and tenures of accommodation to meet local needs.
43. Finally, notwithstanding the loss of bungalows it would generally accord with the SPD which seeks to broaden the choice of tenure, increase the level of accommodation for the elderly and provide additional smaller units of accommodation. Since the SPD has been published relatively recently and seeks to give effect to the CS and the DPD, considerable weight is attached to it.
44. Finally, it would also accord with the advice set out in Paragraph 59 of the Framework that new development should cater for the needs of groups with specific housing requirements.

Character and Volume of Additional Traffic

45. Prior to the Hearing the Council amended its third reason for refusal and removed reference to concerns about on-street parking and highway and pedestrian safety. Instead, it stated that the traffic generated by the proposed development would harm the character of the area.
46. Table 7.5 (Development Generations and Traffic Flows on Queen Anne's Drive) of the Appellant's Transport Statement⁶ notes that on a weekday between 0800-0900 hours the scheme would generate around 3 vehicular trips in each direction along Queen Anne's Drive and a combined sum of 9 vehicular trips between 1700-1800 hours.

⁶ Sanderson Associates (Consulting Engineers) Ltd. Transport Statement. September 2019.

47. The development generated traffic would rise to a peak of 15 vehicles per hour between 1300-1400 hours. In total, between 0700-1900 hours there would be about 110 vehicular movements generated by the scheme. This level of projected increase would be very low in absolute terms and probably also in percentage terms.
48. This additional traffic would inevitably include some unspecified number of commercial vehicles delivering supplies to the extra care facility. However, the presence of commercial delivery vehicles, most of which are likely to be modest sized vans such as those used by supermarkets for home deliveries, has become a facet of daily life in residential areas due to the widespread use of the internet. The effect of this type of traffic on the character of the area would be very limited.
49. For this reason, neither the change in the level nor the change in the type of traffic generated by the proposed development would harm the character of the area. Thus, the proposal would accord with Policies DP1, DP3 and DP4 of the DPD which seek, respectively, to ensure that new developments protects areas from unacceptable levels of noise and disturbance, promotes where possible sustainable forms of transport and provides safe and easy access.

Other Matters

Living Conditions

50. The Council did not find that the proposed scheme would harm the living conditions of any of the occupants of the dwellings within the vicinity. However, objections were made by some residents to the planning application citing the effect on living conditions and these issues were discussed at the Hearing.
51. Mulberry House would face diagonally towards the gable end of the proposed western wing about 25-30 metres away. Its garden boundary abuts the appeal site and sits about 1 metre below it. The view of the site from the rear elevation is largely eclipsed by trees G7 and G8. A ground floor annex of the house sits a few metres away from the fence and a small window in one of the living rooms looks through the gable wall towards the site.
52. The inclusion of the site for development within the DPDA would probably lead to the loss of several of the trees on the site, depending on the form of development. Consequently, it is likely that were the site to be developed the occupants of Mulberry House would suffer some loss of outlook.
53. Nevertheless, the scale of the west wing of the proposed homecare facility in terms of its height and width would mean that it would be very dominant. The effect of the proposed development on the outlook from the main family rooms in Mulberry House would, by virtue of its proximity and its scale, be very significant and thus very harmful to the living conditions of the occupants.
54. Consequently, the proposed development would fail to accord with Policies DP1 and CP1(iii) of the DPD and the CS respectively which seek to ensure that new development does not harm the living conditions of dwelling residents.
55. It would also fail to accord with Paragraph 127f) of the Framework which seeks to ensure that development provides for a high standard of living conditions of neighbouring residents.

Alternative Sites

56. The Council has not rejected the principle of an extra care facility on the appeal site.⁷ The Appellant contends that to make an extra care facility economically viable it needs to contain around 60 or more apartments. This was supported by reference to comparable schemes elsewhere in North Yorkshire. In the context of the appeal site, a 60-apartment building would probably have to be 3 storeys high.
57. However, little substantive evidence was presented to explain why an extra care facility must be around 60 apartments in size to be economically viable and deliverable. Consequently, there is no convincing reason to believe that a smaller, less bulky but nevertheless economically viable facility could not be developed on the appeal site. On this basis, the availability or otherwise of suitable alternative sites within the area is a consideration that carries little weight.

Lack of Specialist Housing

58. During the Hearing the Appellant stated that the lack of a policy tailored to the provision of special needs housing was sufficient to engage the tilted balance approach to decision making set out in Paragraph 11 of the Framework. Nevertheless, the Appellant also contended, and the Council agreed, that an extra care facility was consistent with the site's allocation for housing development. Consequently, the Council's policies are not to be considered as being irrelevant to the provision of an extra care facility and so it cannot be said that there are 'no relevant development plan policies' as per the Framework paragraph 11(d).

Planning Balance and Conclusion

59. The proposal would provide much needed, affordable extra care facilities to help support very vulnerable local people. The local occupancy restrictions and the affordability element are guaranteed through a signed and dated s.106 Agreement. The development would also be located such that the future occupants would have convenient access to their day to day needs such as a pharmacy, GPs and local food store. The ancillary facilities such as the coffee shop would be available to neighbouring residents. These are planning benefits that must be given much weight.
60. Nevertheless, the proposal would, by virtue of its size and bulk, cause very considerable harm to the character and the appearance of an established residential area contrary to the provisions of the development plan and the Framework. This would affect a large area and would be experienced by large numbers of people. Furthermore, it would fail to accord with policies within the development plan that seek to ensure that new development protects the local habitat and is consistent with nature conservation. The proposal would also significantly harm the living conditions of the current and future occupants of Mulberry House in Beechwood Close.
61. Consideration has been given to the relevance of alternative sites. However, the Council does not object to the principle of development of the former quarry land for an extra care facility although it has concern over the height, mass and bulk of the proposed building. Consequently, the availability or

⁷ See paragraph 5.49 of the officer's report for application 19/02128/FUL presented to Committee 9 January 2020.

otherwise of alternative sites is not a matter to which much weight should be attached.

62. Thus, whilst the proposal would produce important benefits to a vulnerable group the scheme would fundamentally conflict with the Development Plan, the emerging HLP and the Framework as regards its effect upon the character and appearance of the area, the local ecology and the living conditions of the occupants of Mulberry House. These conflicts are very significant and outweigh the advantages that the proposal would generate.

63. For these reasons, the appeal should be dismissed.

William Walton

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Stuart Natkus MTCP, Planning Dip MRTPI – Barton Willmore Partnership

Mr Chris Dennis BA Dip Arch RIBA, P&HS Architects

Mr Ben Hellawell BA Dip Arch RIBA, P&HS Architects

FOR THE LOCAL PLANNING AUTHORITY:

Mr Peter Jones MTP MRTPI Development Management Officer

Mr Peter Slegg, Capita

INTERESTED PERSONS:

Mr Simon Mason

Ms Stephanie Renno

Mrs Eleni Winson

Mr Craig Elsworth

Cllr Michael Barningham (Bedale Town Council / Hambleton District Council).

Cllr John Noone (Bedale Town Council / Hambleton District Council).

DOCUMENTS HANDED IN DURING THE HEARING:

Newspaper article – “No solution’ at Bedale death junction’, *York Press* 14 September 2012.

DOCUMENTS SUBMITTED AFTER THE HEARING (with permission of the Inspector):

Sanderson Technical Note: Response to Highways Comments on planning Application 19/02128/FUL

Bedale Extra Care – Addendum Report (Extended), 19 November 2020

Planning Obligation under Deed of Agreement s.106 Town and Country Planning Act 1990, 26 November 2020