
Appeal Decision

Site visit made on 9 June 2021

by J A Murray LLB (Hons), Dip.Plan Env, DMS, Solicitor

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 July 2021

Appeal Ref: APP/E2530/W/21/3270413

Bumblebee Cottage, Mill Lane, Pickworth, NG34 0TE

- 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 and Mrs Roy Knighton against the decision of South Kesteven District Council.
 - The application Ref S20/1104, dated 7 July 2020, was refused by notice dated 24 December 2020.
 - The development proposed is "Erection of dwelling."
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a dwelling at Bumblebee Cottage, Mill Lane, Pickworth, NG34 0TE in accordance with the terms of the application, Ref S20/1104, dated 7 July 2020, subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following list of approved plans:
 - i. Site Location Plan MSP.1741/001
 - ii. Plans and Elevations 1841.A.2b
 - iii. Block Plan 1841.A.1d

Unless otherwise required by another condition of this permission.
- 3) Before any construction work above ground is commenced, details of any soft landscaping works shall have been submitted to and approved in writing by the Local Planning Authority. Details shall include:
 - i. planting plans;
 - ii. written specifications (including cultivation and other operations associated with plant and grass establishment);
 - iii. schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and
 - iv. a schedule of boundary treatments.
- 4) Before the end of the first planting/seeding season following first occupation of the dwelling hereby permitted, all soft landscape works

shall have been carried out in accordance with the approved soft landscaping details.

- 5) Before any of the works on the external elevations of the building hereby permitted are begun, samples of the materials (including colour of any render, paintwork or colourwash) to be used in the construction of the external surfaces shall have been submitted to and approved in writing by the Local Planning Authority.
- 6) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no buildings, structures or works as defined within Part 1 of Schedule 2, Classes A-E inclusive of that Order, shall be erected or undertaken other than those expressly authorised by this permission.

Application for costs

2. An application for costs was made by Mr and Mrs Roy Knighton against South Kesteven District Council. This application is the subject of a separate Decision.

Procedural matters

3. The appellants applied to the Council for a certificate of lawfulness of existing use or development (LDC) in relation to the use of the appeal site as domestic garden land and amenity space ancillary to the residential occupation of Bumblebee Cottage. I have allowed an appeal ref APP/E2530/X/21/3270337 (the LDC appeal) against the Council's refusal of that application and have granted an LDC in those terms. This appeal is determined in the context of that decision.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. Pickworth is listed as one of the "Smaller Villages" in Policy SP2 of the South Kesteven District Council Local Plan (LP) 2011 - 2036, adopted January 2020. In such villages, Policy SP2 supports development in accordance with Policies SP3, SP4 and all other relevant policies, where it will not compromise the nature and character of the village.
6. Pickworth is an attractive village comprising some 60 dwellings of varying types and sizes, including substantial houses in generous grounds. Many are set back from the roads to varying degrees, contributing to an open feel. The pattern of development is loose, but most of the buildings lie to the south of a meandering stream, part of which runs along the southern edge of the appeal site. There are exceptions to this, where buildings lie to the north and west of the stream, most notably at Sykes Lane and at the western end of Village Street, after the stream turns south under the road and past the village hall.
7. The appellants invite me to consider the application of LP Policy SP3 first. Subject to compliance with other relevant development plan policies, this supports infill development, provided 4 criteria are met.

8. Criterion (a) is that the development will be within a substantially built up frontage or re-development opportunity "(previously development land)." The appellants refer to what they say are examples of decisions by the Council where the term "infill" has been broadly interpreted. Those permitted schemes involved back land type proposals, rather than more obvious infilling within a substantially built up frontage. However, there was at least a substantially built up frontage at the point of access to each development site. By contrast, there is no built development fronting the west side of Mill Lane to the north of the appeal site. Neither are there any buildings fronting the east side of Mill Lane, immediately opposite the appeal site, or for some distance to the north, until you arrive at Mill Cottage, which is somewhat divorced from the main body of the settlement.
9. The proposal would not constitute infill, but the appellants contend that the appeal site nevertheless provides a redevelopment opportunity, as it is "previously development land." The use of that particular form of wording in Policy SP3 is a little odd, but I take it to mean "previously developed land" (pdl). Having regard to the judgment in *Dartford BC v SSCLG & Anor* [2017] EWCA Civ 141, private residential gardens which are not in built-up areas fall within the definition of pdl set out in the National Planning Policy Framework (the Framework).
10. However, whilst I have not been provided with a glossary from the LP, that plan was adopted after publication of the latest version of the Framework, which makes clear it should not be assumed that the whole of the curtilage of a building should be developed. Whether or not the appeal site can be said to be within the curtilage of Bumblebee Cottage, my finding in the LDC that the lawful use of the appeal site is as part of the garden and amenity area of that house technically qualifies it as pdl. However, given the terms of the Framework, it does not provide an obvious "redevelopment opportunity", as there are no built structures on it; the house and outbuildings being some distance to the south, beyond the stream.
11. Even if that point is misconceived, such that criterion (a) is met, Policy SP3 requires all 4 criteria to be satisfied. Criterion (b) is that the site is within the main built up part of the settlement. The appeal site is close to, but not within the main built up part, despite forming part of the extended garden of Bumblebee Cottage and constituting pdl. Furthermore, whilst regarding criterion (c), there is no evidence that the development would harm the amenity of adjacent occupiers, criterion (d) first requires that the proposal would not extend the pattern of development beyond the existing built form. In the context of LP Policy SP4, I will consider whether this is harmful, but this proposal would extend the pattern of development beyond the existing built form.
12. Policy SP3 also says that it should be read in conjunction with the Design SPD, which was under preparation at the time of adoption of the LP. I have been given a copy of that SPD, and I am told that the public consultation phase ended in March 2021. Whilst I give that SPD significant weight, its contents are of little assistance in applying SP3 in this appeal. It does however indicate that infill development should complement the street scene "into which it will be inserted." It could not be said that the proposed development would be inserted into the street scene.

13. I am not persuaded that the appeal proposal would comply with Policy SP3, but I must next consider LP Policy SP4. This concerns development “on the edge” of settlements, and I agree with the Council that it is the most relevant policy.
14. The Council contends that it would be reasonable to regard the stream, which runs along the southern boundary of the appeal site, as defining the edge of the settlement and forming a barrier to the open countryside beyond. However, the development plan does not define a settlement boundary for Pickworth. This small stream is a significant feature, but I have concluded in the LDC appeal that the lawful use of the site is as a garden in association with Bumblebee Cottage. Notwithstanding the absence of ornamental planting or garden structures, it has the character and appearance of an informal garden, with carefully maintained lawn. This contrasts noticeably with the open rough pasture and larger enclosures to the north, and indeed to the east.
15. Whilst I make no comment about other areas to the north of the stream, I am not persuaded that this stream defines the edge of the settlement in this location. Here, in my judgement, the open countryside begins to the north of the native hedge, which also forms a defensible boundary feature along the north of the appeal site. Indeed, that hedge features on a historic map from 1864. The site is at the transition between the settlement and the open countryside beyond and can be properly described as being on the edge of the settlement.
16. In reaching this conclusion, I have not been greatly influenced by the Council’s decision to grant planning permission reference S18/2271 for a site at West Willoughby, to which the appellant refers. Whilst there are similarities, and the Council did not address that decision in its appeal submissions, the proposed dwelling in that case had a closer relationship to an existing building, namely a stable block. Furthermore, whilst I have not ultimately found the location of the stream at Pickworth to be decisive, there was no such feature at the West Willoughby site.
17. Policy SP4 establishes 6 criteria relevant to this proposal. Criterion (a) is that substantial local community support for the scheme can be demonstrated. The Council states that this criterion has been met. In short, a Statement of Community Consultation reported that the response to a public consultation exercise revealed that a substantial majority of local residents who responded support the appeal scheme. I cannot assume that those who failed to respond are opposed to the proposal and I see no reason to disagree with the Council’s conclusion that criterion (a) is satisfied.
18. Criterion (b) is that the proposal should be well designed and appropriate in size/scale, layout, and character to the setting of the area. I am not convinced by the appellants’ suggestion that the new dwelling will read as an ancillary building to Bumblebee Cottage; it would clearly be a separate dwelling. Nevertheless, referring to a submitted Heritage Impact Assessment, the Design and Access Statement indicates that the proposed design reflects the style of traditional local agricultural buildings. A heritage consultant was engaged to work closely with the architect, and I accept the contention that the design is appropriate to its context.
19. The proposal is modest, relates well to the site and its local and wider context and takes account of the existing local character. It works with existing natural features, being set into the ground, which rises from south to north, and

against a backdrop of trees and hedging. I am not persuaded by the comments of some local residents that the height of the dwelling would be dominant or oppressive, especially given the degree of separation from other buildings and the topography of the site and boundary hedging. With sensitive soft landscaping, which can be controlled by condition, the house will integrate successfully with the existing pattern of built form on the edge of the settlement, the village being characterised by varying setbacks and large gardens. Its design is of high quality and uses local materials, which can also be controlled by condition, and details found in local architecture. It would be a positive and sympathetic addition to the village of Pickworth and this design generally received favourable responses in the local public consultation exercise. I am satisfied that criterion (b) of SP4 is met.

20. Being on the edge of the settlement, I am content that the development will be adjacent to the existing pattern of development for the area. Accordingly, criterion (c) of SP4 would be met.
21. In terms of criterion (d), I have found that the open countryside begins beyond the hedge, along the northern boundary of the site but, even if the site might be described as being in the open countryside, the question is whether the development will extend "obtrusively" into it. In this regard, the appellants draw attention to paragraph 2.13 of the text supporting Policy SP4. This indicates that "sites must be well located to the existing built form, substantially enclosed, and where the site's edge is clearly defined by a physical feature that also acts as a barrier to further growth (such as a road)." The site is bounded by a road to the east, and hedges to the west and north, the latter separating the site from the open rough pasture beyond. These factors, together with the sensitive design of the dwelling, the large garden area proposed, the scope for appropriate soft landscaping, and the topography of the site will ensure that the development does not extend obtrusively into the open countryside, such that criterion (d) will also be satisfied.
22. Criterion (e) requires this development to meet a proven local need for housing and to seek to address a specific targeted need for local market housing. The Council does not identify any conflict with this requirement and the Statement of Community Consultation includes a response from the Pickworth Parish Meeting. Among other things, this says, *"Several parties have commented that the proposal is for a property of modest size, which will enhance the general variety of homes in a village which currently is somewhat polarised between quite large and very small homes, with few in-between. Recent developments have been larger houses and with house prices rising sharply there is a need for more modest housing developments, such as this one, to broaden the range of quality housing in SKDC."* Some who responded to the appeal expressed a contrary view but, in the absence of any further guidance in the LP on what is meant by a "proven local need", and given the lack of objection from the Council on this score, I am content that this proposal for a relatively modest 3-bedroom house meets criterion (e).
23. The final relevant criterion within Policy SP4 is criterion (f), which is that the proposal will enable the delivery of essential infrastructure to support growth proposals. There is no suggestion from the Council, or anyone else, that infrastructure capacity will be insufficient to support and meet essential infrastructure requirements arising from the proposed development. I am satisfied that criterion (f) is fulfilled.

24. SP4 only supports proposals which accord with all other relevant LP policies and the Council specifically alleges conflict with SP1, SP2 and DE1.
25. I have not been provided with Policy SP1, but the appellants say it sets out the broad spatial strategy for the area. Together with SP2, Policy SP1 no doubt lays the foundations and sets the context for Policies SP3 and 4. If the proposal accords with SP4, there can be no conflict with SP1 or 2.
26. Policy DE1 promotes good quality design. Criterion (a) requires proposals to make a positive contribution to the local distinctiveness, vernacular and character of the area. It is in this regard that the Council alleges conflict with this policy. However, for the reasons given in relation to policy SP4(b), I am satisfied that the proposal does represent a high quality design.
27. Criteria (b) and (c) of Policy DE1 respectively seek to protect the amenity of neighbouring users and ensure the provision of sufficient amenity space. However, the Council expressly acknowledges that the proposal meets these requirements, and I see no reason to disagree. In accordance with criterion (d) the proposal incorporates important site features, such as trees and hedgerows. There is no suggestion of a need to incorporate further nature conservation and biodiversity enhancements, but landscaping can be controlled by condition, which will also enable compliance with criterion (e). In terms of hard landscaping, the plans show a gravel driveway, though the Highway Authority indicates it will require a 1m buffer of bound material inside the private curtilage of the property.
28. Criterion (f) of Policy DE1 requires the incorporation of onsite infrastructure, such as flood mitigation systems or green infrastructure as appropriate. It is apparent from documents provided with the Design and Access Statement that LP Policy EN5 also concerns flood risk management. Some local residents raise generalised flooding concerns. However, the appellants indicate the approximate maximum flood level on their Site Survey plan and the Council states that Lincolnshire County Council, as the Lead Local Flood Authority, has concluded that the proposal is acceptable. The Council therefore accepts that the development accords with DE1 and EN5 in this regard and, once again, the evidence before me does not justify taking a different view.

Other matters

29. Some residents express concerns regarding highway safety, given the location of the site access on a bend, and refer to a "near fatal" accident involving a tractor and motorcycle in this location in August 2018. However, whilst the Highway Authority comments on the application referred to the need to achieve a 2.0m x 43m visibility splay at the access, such a splay is shown on the amended block plan, which also indicates that the entrance will conform with the Highway Authority's standard specification for domestic crossovers. The officer's report records the Highway Authority's conclusion that the development is acceptable in this regard and it does not wish to object. I find no unacceptable harm in terms of highway safety.
30. Some are fearful that allowing this proposal will set an undesirable precedent. However, if this development is acceptable, any precedent it sets for similar development will not be undesirable. In any event, the circumstances surrounding other possible edge of settlement proposals are unlikely to be identical. Any future scheme will fall to be considered on its merits and, in

requiring a demonstration of substantial support from the local community, criterion (a) of Policy SP4 provides an important safeguard.

Overall conclusion and planning balance

31. For the reasons given, I conclude on the main issue that the proposal would not harm the character and appearance of the area. It would accord with LP Policy SP4 and with the development plan as a whole. No other considerations indicate that planning permission should be refused, and I will allow the appeal and grant planning permission, subject to the conditions discussed below.

Conditions

32. In addition to the standard commencement condition, I will require the development to be carried out in accordance with the submitted plans¹, to create certainty for all parties. I will also impose a condition requiring the submission, approval, and implementation of soft landscaping details. This is necessary to ensure the assimilation of the development into this edge of settlement location, at the transition to open countryside. Similarly, a condition requiring the submission and approval of external materials is necessary to safeguard the character and appearance of the area.
33. The Framework and Planning Practice Guidance indicate that permitted development (PD) rights should not be restricted without clear justification. However, it is important to maintain a relatively open feel to this transitional site on the edge of a "Smaller Village." In these circumstances, it is necessary and reasonable to exclude PD rights for buildings, structures or works within the curtilage of the house.

J A Murray

INSPECTOR

¹ I will correct the number of the site plan included in the Council's suggested condition.