



Appeal Decision

Site Visit made on 6 September 2021

by **S Dean MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 October 2021

Appeal Ref: APP/A3010/W/21/3274211

Land adjacent to Ashlea, Plantation Road, East Markham, NG22 0SD

- 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 Mrs Joan Davies against the decision of Bassetlaw District Council.
 - The application Ref 20/01056/FUL, dated 1 June 2020, was refused by notice dated 2 November 2020.
 - The development proposed is two detached dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

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

Preliminary Matters

3. In light of the submissions of the appellant in the appeal, the Council states that it no longer wishes to defend the reasons for refusal relating to drainage, flood risk, the historic environment and the natural environment. My main issues are therefore focussed on the remaining main issues.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the area, whether the proposal meets local housing needs with regard to size and mix and the effect of the proposal on the living conditions of the occupiers of Ashlea, with specific regard to outlook and overshadowing.

Reasons

Character and appearance

5. East Markham has an informal settlement pattern, with a close relationship to its rural surroundings, areas of green space, grassland and woodland extend into the village, but a clear sense of the demarcation between its built extent and the landscape and countryside in which it sits is retained.
6. Despite the somewhat elevated nature of the site in relation to Plantation Road, the site appears to be within, and clearly relates to the built extent of East Markham. The proposed dwellings would be on a similar level to the houses on Plantation Avenue, and these houses, coupled with the visible buildings along

Plantation Road, 'Isard' to the east and the strong northern boundary of the site all reinforce this impression of the site.

7. In addition, the proposed arrangement of buildings ranged to the rear of those fronting onto streets in the village is not unusual, either in the immediately surrounding area, or elsewhere in the village, particularly on sites with older buildings or those more obviously connected to agriculture or other rural enterprises.
8. As such, I do not consider that development of the site would encroach into the open countryside and cause the alleged harm to the rural landscape and village character. Neither do I find that the particular form of development would be out of character with this part of the village.
9. Despite this, as the appeal site lies outside the defined settlement boundary, the proposal is contrary to relevant policies in the Bassetlaw District Local Development Framework Core Strategy and Development Management Policies DPD, adopted December 2011 (the DMDPD).
10. However, the Council sets out in their Officer Report that in spite of paragraph 219 of the National Planning Policy Framework (the Framework), the DMDPD was prepared using a settlement hierarchy which included development limits to control development and does not have any new site allocations. As this approach restricts the delivery of new development, it conflicts with the aims of the Framework and policies limiting growth are of limited weight. I agree with this assessment.
11. Given that and given my conclusions above on the actual effect of the proposal on the character and appearance of the village, the landscape and its compatibility with the established settlement pattern of the village, I find that the proposal is acceptable in this regard.

Housing size and mix

12. Policy NP2 of the East Markham Neighbourhood Plan 2016-2031 (the NP), dated 2018, requires that housing developments deliver a housing mix that reflects the demonstrable need for smaller dwellings, and that applications must show how this local need has been taken into account. In considering this proposal, the Council has made clear that it does not consider the proposal is for smaller dwellings and is therefore contrary to Policy NP2.
13. I acknowledge the desire of the appellant for a single-level home, to meet their particular needs and circumstances, as well as their suggestion that there is an overall level of support and demand for three-bedroom homes as well as homes suitable for an aging population and those wishing to downsize.
14. The appellant refers to, but has not submitted in full, a number of documents around housing mix, needs and demands in the area. In particular, the "North Derbyshire and Bassetlaw SHMA - OAN Update, Final Report, October 2017 OAN -The Objectively-Assessed Housing Need" (the OAN Update). They have also suggested that a number of large dwellings have been granted planning permission nearby in recent years. However, without more detailed evidence on this point, notably the specifics of those proposals, the evidence behind them and their assessment, I cannot be certain that the proposal either represents the delivery of smaller dwellings within the meaning of the policy, or

that the particular local need has been taken into account in the development proposed here.

15. There is clearly a desire for a bungalow on this site to meet the needs of the applicant, and I have some sympathy with that position. There is also clearly a balance to be struck between significantly boosting the supply of homes, meeting needs and demands with respect to the size of dwellings, and the needs of an aging population. This balance is reflected both in the NP and nationally in the Framework.
16. As such, given the evidence before me, I cannot be certain that the proposal meets local housing needs with regard to size and mix. It is therefore contrary to Policy NP2 of the NP. as a result of my conclusions on the evidence before me, I also find that the proposal would conflict with guidance in the Framework on delivering a sufficient supply of homes in the context of meeting the needs of different groups in the community.

Living conditions

17. As noted above, the appeal site is higher than Plantation Road, and there is a gradual rise in land levels from Ashlea, the adjoining property to the site. At present, the rear-most ground-floor windows at Ashlea are close to the boundary wall, and this will clearly already limit the level of outlook from those windows.
18. The appeal proposal would be a similar distance from the boundary wall. Although Ashlea would face towards the roof of Plot 1, and although Plot 1 is a single-storey dwelling, I still consider that given their orientation, close relationship and the overall height, the effect of the proposal would be over-dominant and close. This would limit the outlook from, and light to, those windows closest to the boundary wall at Ashlea. I agree with the Council that it is appropriate to prevent harm which may arise from loss of outlook, and that this is not the same as preventing the loss of a view, which is of course, not protected.
19. The proposed plans for Plot 1 are inconsistent as to whether or not a gable end would face Ashlea, but this detail does not alter my reasoning or conclusion, as the overall height and scale of the proposal would remain the same. The proposed relationship and effect would, I find, be harmful to the living conditions of the occupiers of Ashlea with regard to loss of outlook and overshadowing.
20. As a result, the proposal would be contrary to Policy DM4 of the DMDPD which seeks to ensure development is of appropriate design and does not have any detrimental effect on the residential amenity of nearby residents. The proposal would also conflict with guidance in the Framework on achieving well-designed places with a high standard of amenity for existing and future users.

Other Matters

21. I note the concerns of third-parties around the deliverability of the proposed access to the site. Although this matter was not a main issue, it is important to note that the planning process does not override separate legal rights, nor does it provide legal rights where none currently exist. As such, it would be for the appellant to secure any necessary rights or permissions, separately from the planning application and appeal process.

Planning Balance

22. Parties agree that as the NP has not been reviewed within two-years, its policies cannot be given full weight. Nevertheless, the evidence within it is relatively recent, and in light of the consistency of Policy NP2 with the Framework as a whole, I give it some weight in my decision. I am not convinced by the suggestion that I give greater weight to the conclusions in the OAN Update of 2017, given its age relative to the NP.
23. There appears to be some evidence of need and demand for bungalows, but there is apparently no overall housing land shortfall in the area. Without more detailed evidence on the particular type of need, and in light of the conclusions of the most recent tested evidence and policies on this point, on the face of the evidence before me I cannot be certain that the proposal would meet the particular needs and demands of the area, that the need from the NP is no longer there, or that this proposal would be acceptable even in the face of that need.
24. Given the importance of the issues of housing mix with regard to meeting housing need and demand, which is clear both from the Framework at a national level, and from the NP at a local level, I find that failing to deliver an appropriate mix would be an adverse impact of the proposal. There are benefits arising from the proposal, namely the provision of housing as sought by the Framework, but they are limited by the scale of the proposal, particularly in light of one of the units being for occupation by the appellant.
25. I find that I have not been presented with sufficient evidence to demonstrate that the proposal either meets the needs and demands of the local area with particular regard to housing mix, or that it is not required to. Coupled with the harm I have found to living conditions, I conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
26. I therefore find that the presumption in favour of sustainable development does not apply.

Conclusion

27. For the reasons given above I conclude that despite the lack of harm to the character and appearance of the area, the proposal conflicts with the development plan and the Framework with regard to living conditions and housing mix. I find that there are no material considerations which indicate that a decision be taken other than in accordance with the development plan.
28. The appeal should therefore be dismissed.

S Dean

INSPECTOR