



Appeal Decision

Site visit made on 30 November 2021

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 14th March 2022

Appeal Ref: APP/D3505/W/21/3274928

4 South View Green, Bentley IP9 2DR

- 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 D Jones against the decision of Babergh District Council.
 - The application Ref DC/21/01223, dated 1 March 2021, was refused by notice dated 22 April 2021.
 - The development proposed is a single storey detached dwelling with associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An emerging Bentley Neighbourhood Plan is currently at the early stages of examination, and a referendum has not been held. Thus, in accordance with paragraph 48 of the National Planning Policy Framework (2021) (the Framework) and the Planning Practice Guidance on neighbourhood planning, whilst I have had regard to those policies I attach only limited weight to them in my consideration of this appeal.

Main Issues

3. The main issues are the effect of the appeal proposal on:
 - The character and appearance of the area; and
 - The living conditions of the occupiers of No 4 South View Green with particular regard to light glare, noise and disturbance.

Reasons

Character and appearance

4. The appeal site is an area of front and rear garden land associated with the host dwelling. The pattern of development of South View Green and its adjacent residential streets is one of generally well-spaced dwellings which are well set back from the highway within reasonably sized plots. These factors contribute to the area's spacious appearance, irrespective of its lack of Conservation Area or other designation. The appeal site contributes positively to this appearance within views from the street and from surrounding properties due to the lack of built form within it.

5. The close proximity of the proposed dwelling to three surrounding properties would erode the area's spacious density. This would result in a cramped appearance which would be uncharacteristic of the prevailing pattern of well-spaced buildings, and would create a sense of enclosure in views from the street. As a result, the proposal would cause harm to the character and appearance of the area.
6. Even if I were to conclude that the proportion of the site itself which would contain built form would be acceptable and that aspects of the proposed dwelling's design would match that of existing development, these matters would have a neutral effect on the area's appearance. Thus, they do not attract weight in favour of the scheme.
7. As my concerns relate to the position and scale of the proposed dwelling within the site, the suggested imposition of a condition to restrict any permitted development rights to erect extensions or outbuildings would not render the proposal acceptable.
8. Reference is made to an assessment within the officer report that "the adverse character effect is not so harmful as to be considered fatal to the application in its own right". Nevertheless, given its context within a paragraph which specifically concerns the loss of the front garden/parking to 4 South View Green, this assessment cannot be taken to relate to the proposal as a whole and the Council's concerns regarding the effect of the remainder of the scheme on the appearance of the area are adequately set out elsewhere.
9. Furthermore, commentary on the proposed dwelling's single storey scale within the residential amenity section of the report assesses the proposal's effect on the living conditions of surrounding occupiers with regard to outlook rather than on the character and appearance of the area, and so this does not lend support for the proposal's effect on that issue.
10. Thus, the proposal would have a harmful effect on the character and appearance of the area. This harm would be moderate due to the development's limited scale. As a result, the proposal conflicts with Policy CN01 of the Babergh Local Plan (2006) (the LP), which states that new development proposals must pay particular attention to the form and nature of adjacent development. Further conflict exists with Policies CS01, CS11 and CS15 of the Babergh Local Plan Core Strategy & Policies (2014) (the CS), which set out the presumption in favour of sustainable development, and that development at this location should be appropriate in size/scale, layout and character to its setting and to the village, and should make a positive contribution to the local character, shape and scale of the area.

Living conditions

11. A shared turning space would lie at the start of the proposed dwelling's drive, so that it would be necessary for motorists to manoeuvre within this in order to reverse into or out of the development's parking area. Such vehicle movements would be increased by the proposed tandem parking arrangement to the new dwelling, whereby one vehicle would be parked in front of another.
12. The front elevation to No 4 South View Green would face the new drive and turning area from a relatively close proximity. This elevation contains a number of windows which, as No 4 is a single storey property, form the

principal outlook from the front of the dwelling. Vehicles associated with the proposed dwelling using the drive and turning area would pass in close proximity to the windows in the front elevation to No 4 for some distance. Greater noise and disturbance levels than are currently experienced by the occupiers of the host dwelling would consequently result from the proposed development.

13. The additional vehicular noise and disturbance are likely to be highly noticeable by occupiers of No 4 due to the close proximity of the drive, and this would particularly be the case during warmer months when windows are likely to be open for ventilation. Additional noise and disturbance are likely to adversely affect occupiers of the host dwelling due to these factors. Whilst I acknowledge that such vehicle movements associated with a dwelling of this size are generally likely to be limited, I have identified that the proposed tandem parking arrangement would give rise to additional vehicle movements. This would exacerbate the harm caused to living conditions.
14. There is minimal evidence before me on whether the levels of additional noise would accord with British Standard and World Health Organisation guidelines, or to suggest that surfacing choice could acceptably mitigate the identified harm.
15. Furthermore, although I acknowledge that the use of plug-in and other ultra-low emission vehicles is likely to become widespread, their use is currently limited and moreover there is minimal evidence before me to demonstrate that it would result in an acceptable level of noise and disturbance to nearby occupiers. Therefore the potential use of such vehicles is a consideration to which I attach only minimal weight.
16. The appellants submit that as they own No 4 its occupiers are more likely to tolerate the disturbance of vehicular movements at the proposed dwelling. Nevertheless, planning in general is concerned with land use in the public interest. It is probable that the development would remain long after the current personal circumstances cease to be material. For these reasons, this is not a consideration which attracts weight in the proposal's favour.
17. There is limited evidence of the effect of illumination from vehicle headlights on the living conditions of occupiers of No 4. Whilst I acknowledge that an element of additional illumination may occur as a result of the development, this would be of a brief duration and in view of the small size of the development, it is unlikely to be so frequent as to be harmful. Furthermore, window coverings, which are likely to be in use at No 4 during the hours of darkness, would mitigate any harmful effects. Accordingly, the limited additional illumination experienced at No 4 as a result of the development would not result in unacceptable harm.
18. Nevertheless, the proposal would cause unacceptable harm to the living conditions of the occupiers of No 4 South View Green with particular regard to noise and disturbance. It consequently conflicts with Paragraph 130(f) of the Framework, which states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

19. The residential streets around the site are reasonably wide and straight, and the visibility levels available to motorists and other highway users are generally good. Traffic speed is restricted to 20 or 30 miles per hour in the immediate vicinity.
20. Furthermore, there was a minimal level of on-street parking on the day of my visit and, whilst this was only a “snapshot” in time, there is nothing to suggest that this situation is not typical. As a three bedroomed household the proposed dwelling would be likely to give rise to only a limited number of associated vehicles, so that the level of any additional on-street parking generated by the development as a result of any potential inconvenience arising from the tandem parking arrangement would be low. As a result of these factors, it is possible to find suitable places to park on the street in the vicinity and this consideration is consequently unlikely to give rise to any unacceptable harm to highway safety.
21. My attention has been drawn to a scheme (Local Planning Authority Reference B/16/01189) for one dwelling in the vicinity of the appeal site, and to another appeal decision in the district (APP/D3505/W/20/3259784). I have limited details on the circumstances of these. Nevertheless, the constructed nearby dwelling has larger distances to other dwellings to either side than that currently proposed. The appeal decision describes that site as comparatively long and wide and finds that the proposal would fit acceptably with the prevailing pattern of housing in the locality. There are consequently considerable material differences between the proposals and the appeal scheme. Moreover, even if the other developments and circumstances were similar, they would not inevitably provide an example that should be followed even if harm results. Accordingly, the other developments do not alter my conclusions as to the unacceptability of the current scheme.
22. Whilst the Framework does not provide a definition for the term infill, the term is generally understood to denote the development of a relatively small gap between existing buildings. The appeal scheme does not form infill development because the level of setback of the proposed dwelling results in a location behind any space between the existing buildings.
23. In refusing permission for character and appearance reasons, the Council relies in part on Policy HS28 of the LP. This policy concerns infilling or groups of dwellings. However, as I have found that the proposal would not form infill development, Policy HS28 has limited relevance to the main issues of this appeal.
24. I note the appellants’ concerns regarding the Council’s approach, however, these are not matters for this appeal, which I have determined on its planning merits.

Planning Balance and Conclusion

25. The appellants suggest that the policies which are most important for determining the application are out-of-date. If I were to accept that this is the case, paragraph 11 of the Framework sets out that it is then necessary to grant permission, unless any adverse impacts of doing so would significantly and

- demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
26. I consider that the development plan policies which are most important for determining the appeal are Policy CN01 of the LP and Policies CS11 and CS15 of the CS. I find Policy CN01 to be consistent with the Framework and as a result I attach full weight to the identified conflict with that policy in determining the appeal.
27. A previous appeal decision in the district¹ has found policies CS11 and CS15 to be out-of-date or not wholly consistent with the Framework. The approach of Policy CS11 to development in the countryside was found not to be wholly consistent with the Framework. Policy CS15 was found to be out-of-date because it was considered to fail to acknowledge aspects of the Framework's approach to the historic environment. These conclusions reduced the weight which was consequently attached to the identified conflict of that proposal with those policies.
28. I concur with the finding of the previous inspector that Policy CS15 does not reflect the balancing exercise set out within paragraph 202 of the Framework with regard to harm to the historic environment. Nevertheless, that element of Policy CS15 is not most important for determining this appeal. Whilst Policy CS11 is considered in the other appeal to be inconsistent with the Framework in terms of its approach to development in the countryside, I find that the section of the policy which is relevant to the current appeal is that concerning Hinterland Villages.
29. Whether a policy is out-of-date or not can be assessed against the way in which it operates in relation to the determination of a particular proposal rather than solely in a generic manner. The Council's officer report indicates that it relies on section (ii) of Policy CS15 in refusing permission for the appeal proposal. The aims of this section are set out above. The relevant aims of Policy CS11 are also set out above. In both cases I find these sections of the policies to be consistent with the aims of the Framework.
30. Turning to the question of whether the most important policies are to be regarded as out-of-date for the purpose of my decision, I find that policy CN01 of the LP and policies CS11 and CS15 of the CS provide the most relevant criteria for consideration of the proposed development. I have found above that these policies are not out-of-date and consequently I attach full weight to the proposal's identified conflict with them.
31. Furthermore, I have no evidence to demonstrate that the appellants' reservations about the Council's ability to demonstrate a Framework-compliant 5 year housing land supply are founded.
32. Thus, as the appeal proposal is in conflict with relevant policies in the development plan, and the policies which are most important for determining the application are not out-of-date, the proposal does not benefit from the presumption in favour of sustainable development.
33. The proposed development would contribute to the supply of homes in a location where development would enhance and maintain the vitality of rural

¹ APP/D3505/W/20/3246576

communities. Economic benefits would arise from the construction work and from the occupation of the new house. Given the small scale of the development, these benefits attract modest weight.

34. There is nothing before me to suggest that the proposal would cause unacceptable harm in terms of the materials used, garden size or any sustainability measures. It is submitted that it would comply with housing standards and that some of the statutory consultees have not objected to the proposal. However, these are neutral matters which do not attract weight.
35. Against this, the proposal would cause moderate harm to the character and appearance of the area, and unacceptable harm to the living conditions of the occupiers of No 4 South View Green. As a result of this, the environmental aspect of sustainable development would not be achieved.
36. The proposal consequently conflicts with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
37. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR