



Appeal Decision

Site visit made on 2 August 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2022

Appeal Ref: APP/A3010/W/22/3291872

Previously railway land adjacent to railway line and crossing, Lincoln Road/Broadgate, East Markham NG22 0SH,

- 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 Mr Alan Broadbent against the decision of Bassetlaw District Council.
 - The application Ref 20/00812/OUT, dated 6 July 2020, was refused by notice dated 16 August 2021.
 - The development proposed is described on the application form as '3 x single bedroom dwellings with parking and 1 x 4 bedroom dwelling with garage and greenhouse'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with all matters reserved. I have determined the appeal accordingly, treating the submitted plans as indicative on all matters.
3. The number of houses proposed was reduced from four to three during the application. The description of the proposal was amended to read 'Outline planning application with all matters reserved for up to 3 dwellings'. The appellant agreed to a revised description by e-mail dated 28th July 2021. Consequently, the appeal has been determined on the revised description.
4. I note the appellant's arguments that the appeal should be considered as the failure of the Council to reach a decision within the requisite timeframe, with evidence provided of the various exchanges on that matter between the main parties. Nonetheless, the appeal was lodged on 1 February 2022, which post-dates the Council's decision notice of 16 August 2021, and I have therefore approached the appeal accordingly. Moreover, even were the appeal against a failure to determine the application, the Council's objection to the scheme is clear from their case at appeal.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of future occupiers with specific reference to private amenity space; and

- trees, hedgerows and biodiversity.

Reasons

Character and Appearance

6. The appeal site comprises two distinct parcels of land, one to the west of the East Coast mainline (Parcel A) and the other to the east of the East Coast mainline (Parcel B).
7. Parcel A lies immediately to the north of the village of East Markham and comprises a long narrow triangular plot of land fronting Lincoln Road. The land to the north of Lincoln Road, which incorporates the appeal site, comprises open countryside. At the time of my site visit it was in agricultural use. Large, detached dwellings, set a modest distance from the highway and in spacious landscaped plots, lie immediately to the south. This gives the area an open green character.
8. According to the indicative plans, Parcel A has a depth of approximately 8.6 metres where it abuts the railway, tapering to nothing at its western extremity. It has a road frontage of approximately 150 metres and has a mature mixed hedgerow, interspersed with trees, close to the back of the highway.
9. Whilst acknowledging that the proposal seeks outline approval with all matters reserved, given the shape and depth of the site, any new dwelling erected would be located close to the highway. Furthermore, there would be a requirement for off street parking, with any attendant visibility requirements. The combination of these factors, which is clearly illustrated on the appellant's indicative plans, would necessitate the removal of substantial sections of the vegetation from the Lincoln Road frontage. This would significantly erode the contribution the site makes to the rural character of the area.
10. Moreover, the proposed dwellings would contrast significantly with other dwellings in the locality in terms of their relationship with the highway, their scale, plot size and shape. They would appear cramped upon their plots and as a consequence, they would appear out of character with the area and significantly erode the spacious qualities of this part of Lincoln Road.
11. Since the closure of the level crossing on the East Coast mainline, Parcel B has had no direct vehicular or pedestrian connection with the village of East Markham. Furthermore, with the exception of Lark Rise, a substantial detached house that lies immediately to the south of Parcel B, and a small number of isolated farm buildings, the area to the east of the East Coast mainline is predominantly open countryside.
12. Parcel B is a rectangular shaped plot of land with its southern boundary being formed by a mixed native hedge. At the time of my visit, the appeal site was separated from the adjoining fields by a low fence and was in an overgrown state. Notwithstanding the condition of the land, which represents only a snapshot in time, Parcel B makes a positive contribution to the open rural character of the area.
13. I acknowledge that Parcel B could accommodate a dwelling, of the scale illustrated on the indicative plans, whilst also providing space for any required garden and parking. This could be achieved without a significant detriment to the existing hedgerow.

14. Notwithstanding the above, the proposal would introduce a new dwelling, outside of the village boundary and within open countryside, which would cause significant harm to the open character of the area.
15. Accordingly, I conclude that the proposed development would have a significantly harmful impact on the character and appearance of the area. This would be in conflict with Policy DM4 and DM9 of the Bassetlaw District Local Development Framework – Bassetlaw Core Strategy & Development Management Policies DPD (LP), Policies NP1 and NP4 of the East Markham Neighbourhood Plan (NP). It would also be in conflict with Section 3.5 of the Successful Places Supplementary Planning Document (SPD). These policies and guidance, amongst other matters, seek developments that provide clear functional and physical links with the existing settlement and surrounding area, and complement and enhance the character of the built, historic and natural environment. They are consistent with paragraph 134 of the National Planning Policy Framework (the Framework) which seeks well designed development that reflects local design policies.

Living conditions

16. I accept that the application is in outline form with all matters reserved. Consequently, any assessment of the amount of amenity space required, or provided, is limited at this stage. That said, I have taken into account the indicative layout provided by the appellant and guidance provided within section 3.11.15 of the SPD, and more specifically Table 4. This indicates that between 50 to 90 sqm of outdoor amenity space should be provided, dependent on the number of bedrooms provided.
17. Given the constraints of the site, and the Council's amenity space requirements, I find that it would be feasible to comply with the guidance in a numerical sense for two dwellings on Parcel A. That said, given the shape and depth of this part of the appeal site, and the likelihood of at least one of the dwellings being located close to the East Coast mainline, it is unlikely that the scheme would provide a reasonable space in which future occupiers would be able to relax and enjoy some peace and quiet. In this regard, I note the concerns raised by the Council's Environmental Health Officer and Network Rail, in respect of noise arising from the operation of the adjacent railway, which operates on a 24/7 basis. I share their concerns on this matter, and in the absence of evidence to the contrary, I have no certainty that noise levels could be mitigated to an acceptable level that would be appropriate for residential gardens.
18. I find that the development of Parcel B would offer greater flexibility, in terms of providing adequate amenity space. Nonetheless, in the absence of a detailed noise assessment, there can be no certainty that it would provide a garden space that would be pleasant for future residents to use and enjoy.
19. In light of the above, I find that the proposed development would not provide adequate amenity space, of an acceptable standard, and consequently there would be harm to the living conditions of future occupiers. Consequently, the proposal would be contrary to Policy DM4 of the LP and section 3.11.15 of the SPD which supports development that, amongst other matters, provides a decent standard of private amenity space. This policy and guidance is consistent with paragraph 130 of the Framework which seeks, amongst other matters, to create places with a high standard of amenity for future users.

Trees, Hedges and Biodiversity

20. Both Parcel A and B have mature, native, hedgerows fronting the highway and abut open countryside. There are also a number of mature trees located with the hedgerow fronting the Parcel A.
21. I have no detailed evidence before me regarding the location, species or condition of the hedgerows or trees, nor the likely impact that the proposed development would have on them. That said, the indicative plans submitted by the appellant, suggest that a significant part of the hedgerow fronting Parcel A would need to be removed to accommodate the proposed development. A lesser amount of hedgerow would be removed to facilitate the development of Parcel B
22. Irrespective of any impact on the visual character of the area, resulting from the loss of any part of the hedgerow or tree, there would also be a consequential loss to biodiversity. However, in the absence of a survey of the hedgerow and trees, and a detailed assessment of their ability to sustain wildlife, I am unable to assess the magnitude of any impact the proposed development would have.
23. In light of the above, I find that there is insufficient information to enable a full assessment of the impact of the proposed development would have on trees, hedgerows and biodiversity. Consequently, it would be contrary to Policy DM9 of the LP which seeks, amongst other matters, development proposals that protect and enhance green infrastructure assets, and where possible, provide improvements that benefit biodiversity. This policy is consistent with paragraph 180 of the Framework which seeks, amongst other matters, to avoid significant harm to biodiversity resulting from development.

Other Matters

24. I acknowledge the appellant's comments regarding the Council's processing of the application. Whilst I appreciate their evident frustration in that respect, that is essentially an administrative matter. My decision focusses instead on the planning merits of the scheme.
25. The appellant refers to the Draft Bassetlaw Local Plan 2020 and the East Markham Neighbourhood Plan and the emphasis they place on providing a range of house types and sizes to meet housing needs, including affordable houses for over 50's and or/starter homes while including self build plots. That said there is no substantive evidence before me in support of that position, or identifying a pressing need for additional housing in the locality. Nevertheless, even if I was to reason that was the case, inherent in my reasoning above is that the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits.
26. The appellant also asserts that the land benefits from permitted development rights, which originate from the Great Northern Railway Act 1945. Whilst acknowledging that there are rights, in statute, that enable certain development to be carried out without the need for planning permission, I have no substantive evidence before me to indicate that those rights still exist in this case or to be able to make a comparison in respect of the scheme before me. Consequently, I give this very little weight.

27. I have also taken into account that the appeal site lies outside of the East Markham Conservation Area CA. Whilst I acknowledge that the loss of existing hedgerows and trees will have an adverse impact on the character and appearance of the immediate area, this would be localised. Therefore, I find that the impact on the CA would be neutral.

Conclusion

28. There are no other relevant material considerations worthy of sufficient weight that indicate the application should be determined other than in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be dismissed.

John Gunn

INSPECTOR