
Appeal Decision

Site visit made on 9 August 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2022

Appeal Ref: APP/H1705/W/22/3290266

Brices, Well Street, Burghclere, Hampshire RG20 9HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Rivar Ltd against Basingstoke and Deane Borough Council.
 - The application Ref 21/01335/FUL, is dated 13 April 2021.
 - The development proposed is a 3 bedroom detached house and associated access on the side garden of the existing property.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following the submission of the appeal against non-determination, the Council has provided both an Officer's Report and a Statement of Case, which provides clarity in terms of the main reasons why the Council would have refused planning permission had it been able to do so. Therefore, the main issues below are taken from these documents.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area, and whether the proposed development would provide satisfactory living conditions for existing and future occupiers, with specific regard to external garden space.

Reasons

Character and Appearance

4. The appeal site is a triangular parcel of land, which currently forms part of the side garden of Brices. Brices is a detached bungalow which forms a small group with 2 other detached bungalows, which are positioned in between Well Street, which lies to the front of the appeal site, and Harts Lane which runs to the rear. The bungalows all currently sit relatively unobtrusively in the streetscene, partly due to their single storey nature. Mature vegetation encloses the appeal site along both Well Street and Harts Lane. Whilst the other 2 bungalows are not within particularly spacious plots, their plots are more regular in shape than the appeal site.
5. The appeal site is a prominent corner plot as you enter Burghclere from the north. Whilst the site is within the settlement boundary, it lies close to the edge of the village. There is a spacious and open character to this part of Well Street

due to the Burghclere Recreation Ground and Car Park positioned to the south of the group of bungalows. Clere School and the associated playing fields lie opposite the appeal site. Whilst the school building is large, the playing fields form part of the open character. Consequently, the undeveloped nature of the appeal site contributes positively to this open and spacious character. The character of the properties along Harts Lane differs slightly, with a mixture of detached bungalows, detached 2 storey dwellings and terraced properties.

6. Whilst there is a variation in the architectural styles in the area, as a detached 2 storey building sat alongside the 3 detached bungalows, the appeal scheme would noticeably jar with the immediate built form. Its corner position, particularly in the Well Street streetscene, would make these effects obvious and consequently incongruous. Whilst it would be seen partly in the context of the Harts Lane 2 storey dwellings, the proposal would front Well Street and positioned much closer to Well Street than Brices, which would increase its prominence and thus its incongruity. Due to the triangular shape of the appeal site, it would also result in a cramped development, on a smaller plot than those of the surrounding bungalows.
7. The lowered eaves and dormer windows would help to mitigate the visual impact of the proposal. However, these design details along with the 'traditional cottage' design and materials, would not be sufficient to overcome the concerns raised above.
8. Whilst the retention of the boundary vegetation would help to screen the proposal to some extent, any reduced obviousness in the public realm would not make up for the inappropriateness of the proposed development's size, height, design and siting. The lack of any local or national designations on the site does not alter my findings above.
9. The appeal scheme would therefore cause harm to the character and appearance of the area. It would conflict with the objectives of Policies EM1 and EM10 of the Basingstoke and Deane Local Plan 2011-2029 (Local Plan) (adopted May 2016), Policies B3 and B5 of the Burghclere Neighbourhood Plan (NP) (adopted May 2021) and advice within the Council's Design and Sustainability Supplementary Planning Document (the SPD) (adopted July 2018). In combination, they seek to ensure that proposals are of high quality, positively contribute to local distinctiveness and the sense of place and the existing street scene, that they reflect the scale, mass, design and layout of existing residential dwellings, and are sympathetic to the character and visual quality of the area concerned.
10. The proposals would also be contrary to the principles within Chapter 12 of the National Planning Policy Framework 2021 (the Framework) which seek good design sympathetic to the local area.

Living Conditions of Existing and Future Occupiers

11. Owing to the appeal site consisting of part of the existing garden of Brices, the proposal would result in a reduced garden for the existing occupiers of Brices. Whilst the presence of the trees in their remaining rear garden was noted, due to the suitable size of the rear garden, this would not render the garden that Brices would be left with unusable. Therefore, the proposal would provide satisfactory living conditions to the existing occupiers of Brices, with specific regard to external garden space.

12. Regarding the future occupiers, the proposed dwelling would provide 2 areas of garden space to the side and rear of the dwelling. Cumulatively, these would measure 177sqm. The main concern of the Council appears to be the depth of the proposed garden areas. The SPD states that as well as requiring a garden size of 60sqm, the garden must also have a minimum garden depth of 10m. Whilst the depth of both the side and rear gardens would be below 10m in places, it is considered that on balance, irrespective of their irregular shape, both spaces provided would still be useable, private external garden space, due to their adequate size. They would meet the recreational and domestic needs of the occupants as required by the SPD. This is despite the retention of the hedges and trees in and around the site.
13. With this in mind, the proposal would provide satisfactory living conditions for both existing and future occupiers, with respect to external garden space. It would therefore be in accordance with Policy EM10 of the Local Plan and Policy B3 of the NP which, in combination, seek to provide a high quality of amenity for occupants of development and neighbouring properties having regards to, amongst others, amenity space, and to safeguard the amenity of adjacent residential dwellings and their curtilages. It would also accord with guidance within the SPD, which sets out criteria to ensure development provides adequate amenity space to meet the recreational and domestic needs of the occupants. It would also be in accordance with paragraph 130 (f) of the Framework, which states that development should have a high standard of amenity for existing and future users.

Other Matters

14. The Council is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 11 of the Framework states that where the most important policies are out of date (such as in this case), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
15. The proposal would provide a limited amount of short-term employment through the construction of the development and some further modest benefits would result from the additional support to the vitality of the local facilities and local community from the future occupiers of the dwelling. The proposal would make a modest contribution to the supply of housing and towards helping to address the Council's shortfall. I also note the proposal would meet a market need for family housing, the generation of additional New Homes Bonus payments and the incorporation of energy efficiency measures, which would all be beneficial.
16. However, the proposal would result in harm to the character and appearance of the area. Harm to which I would ascribe substantial weight since it would be long lasting. As such it would be contrary to the aims of the Framework, which recognises that planning decisions should ensure that developments are sympathetic to local character, including the surrounding built environment. Overall, and for this reason, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. It would not therefore be sustainable development for which the presumption in favour applies.

17. I note the findings of the appeal decision provided by the appellant¹, within which the Inspector attaches 'significant weight' to the social benefits a single dwelling would deliver. However, no further details have been provided. Nevertheless, the circumstances in each proposal are likely to be different. I have considered this appeal proposal on its own merits and concluded that in this case, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits.
18. The appellant maintains the position that the appeal site represents previously developed land (PDL). This is defined within the glossary at Annex 2 of the Framework and specifically excludes land in built-up area such as residential gardens. *Dartford BC v SSCLG [2016] EWHC 635* confirmed that this does not extend to private residential gardens that are not located in built-up areas. I also note that the Local Plan provides definitions of both 'settlement' and 'Settlement Policy Boundary' to distinguish such areas from the open countryside.
19. Whilst the appellant considers that the Council cannot contend that any garden within a settlement policy boundary is in a built-up area, the particular circumstances of this case, most notably that there is residential development to the south and the west, it is considered the appeal site would be classed as being within a 'built-up area' of the village. The site is an enclosed site, with vegetation on the site boundaries and, due to the proximity to Brices, the site is clearly read as part of the domestic surroundings of Brices. The appeal site would not be considered to represent PDL.
20. I note the appellants state that the site of the appeal proposal is currently unused garden. However, what is proposed in its place would be harmful to the character and appearance of the area for the reasons I have given.

Conclusion

21. Whilst I have found that the proposal would not harm the living conditions of existing or future occupiers, with specific regard to external garden space, the proposed development would harm the character and appearance of the area. Therefore, the appeal scheme would conflict with the development plan. There are no material considerations, including the approach of the Framework and worthy of sufficient weight, that would indicate a decision other than in accordance therewith. The appeal should therefore be dismissed.

Laura Cuthbert

INSPECTOR

¹ APP/H1705/W/21/3284682