



Appeal Decision

Site visit made on 9 August 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

Appeal Ref: APP/A3010/W/22/3292989

2 York Place, York Street, East Markham NG22 0QW

- 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 S Reah against the decision of Bassetlaw District Council.
 - The application Ref 21/00863/FUL, dated 27 May 2021, was refused by notice dated 15 October 2021.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It is apparent that the application was amended during the planning application process, with the amendments including the reduction in the number of dormer windows proposed on the rear elevation and the omission of a chimney from the side elevation. For clarity it is the proposal as shown on the amended plan dated 21 July 2021 which is the plan considered by the Council in reaching their decision and therefore the plan I have considered in this appeal.
3. The Council acknowledge that the Bassetlaw District Council Local Development Framework – Core Strategy & Development Management Policies DPD (adopted 2011) (CS) policies for housing provision have not been reviewed within the last 5 years. The National Planning Policy Framework (the Framework) sets out that existing policies should not be considered out of date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with the Framework. The Council's decision did not refer to Policy CS1 of the CS which restricts housing to within defined settlement boundaries, or Policy CS8 which states that East Markham is a rural service centre and that proposals for residential development can be supported. There is no argument between the main parties about whether these policies are complied with, or that they are not consistent with the Framework. Given the basis of the Council's decision, I have insufficient submissions to reach a firm view on that. However, it is also agreed that the location for housing would be acceptable in principle and would comply with these development plan policies and the Framework.

Main Issues

4. The main issues are therefore:
 - the effect of the proposed development on the character and appearance of the area, having particular regard to the extent to which it would preserve or

enhance the character or appearance of the East Markham Conservation Area; and

- the effect of the proposed development on highway and pedestrian safety

Reasons

Character and Appearance

5. The appeal site lies within the East Markham Conservation Area (CA) which encompasses the historic core of the village. The former market settlement is recognised for its post-Roman Anglo-Saxon origins and is characterised by historic farmsteads including dovecotes and pigeoncotes. Much of the CA is typical of medieval villages with planned streets containing rectangular buildings with regular long plots of land perpendicular to the road. The significance of the CA stems from the extent to which the historic street pattern, layout, and buildings have remained intact, contributing to the areas special architectural and historic character and appearance.
6. The appeal site forms part of a spacious garden associated with 2 York Place, with the majority of this space located to the north of the property. No 2 is one of a pair of semi-detached cottages which are rural in character and date from the late 18th or early 19th century. The cottages which are of red brick construction with a pitched tile roof, sit within a long rectangular plot and are orientated perpendicular to and in close proximity to the road.
7. Due to their positive contribution to the special interest of the CA, the cottages are identified in the East Markham Conservation Area Appraisal & Management Plan (EMCAA) as being 'positive buildings' within the CA. The evidence before me therefore indicates that No 2 is a non-designated heritage asset (NDHA). Paragraph 203 of the Framework requires that when determining applications that affect the significance of a NDHA a balanced judgement is required, having regard to the scale of any harm, and the significance of the asset.
8. The proposal would see the erection of a detached two storey dwelling of 'L-shaped' formation towards the rear of the appeal site behind the existing cottages. This part of the CA is characterised by predominantly rectangular plots with dwellings sited close to the roadside. Whilst the distance that these properties are set back from the roadside may vary, the positioning of a dwelling deep in the plot with no street frontage would distort the established pattern of development that forms part of the distinctiveness of the CA.
9. The appeal site is comparable in terms of its size and rectangular shape to other plots in the vicinity, including those to the west along Great Lane. I also acknowledge that the rear elevation of the proposed dwelling would be broadly in line with the building line of the rear elevations of Salisbury House and Westgate located to the west of the site. However, these properties retain a street frontage and represent a generally linear form of development as opposed to the appeal proposal which represents backland development. The proposed development would therefore fail to relate to the historic development pattern and character of this part of the CA.
10. Furthermore, part of the positive contribution that No 2 and the appeal site makes to the character and appearance of the CA is the long rectangular plot which is so characteristic of the village's historic plan form. The appeal proposal

would result in the plot being awkwardly sub-divided which, in doing so, would result in an uncharacteristic form of development within this part of the CA.

11. I observed during my site visit that the two-storey and single side extension recently granted planning permission¹ at No 2 had been substantially completed. This has resulted in the floorspace of No 2 being significantly increased and now exceeds the floorspace of the proposed dwelling. Additionally, the height of the proposed dwelling would only exceed the height of No 2 by approximately 0.92 metres. I find therefore that the scale and footprint of the proposed dwelling would be comparable to both No 2 and other nearby residential dwellings within the CA.
12. However, the ground levels of the site rise steadily northwards with the submitted topographical survey² detailing that the ground levels at the extreme north of the site are around 3 metres higher than those immediately around No 2. Consequently, the proposed new dwelling would occupy an elevated position above No 2 which, despite the minimal difference in height of the two dwellings, would result in the development appearing overly dominant and overbearing causing harm to the significance of the NDHA and the character and appearance of the CA. This harm is further exacerbated by the recent erection of the side extension detailed above at No 2, which significantly reduces the separation distance between the existing and proposed dwellings.
13. The design of the proposed dwelling, which would be of L-shape formation and would include the provision of three dormer windows, rooflights, and an external porch, would be suburban in character, failing to respect or relate to the modest design and rural character of the adjacent cottage. Consequently, by virtue of its design, siting, and topography of the site, the proposed development would detract from the significance of the NDHA and the character and appearance of the CA.
14. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Paragraph 199 of the Framework states that when considering the impact of a development on a designated heritage asset, great weight should be given to the asset's conservation. Whilst the harm I have identified would be less than substantial, it nevertheless is of considerable importance and weight. Paragraph 202 of the Framework requires this harm to be weighed against the public benefits of the proposal.
15. There would be benefits to local housing supply in the form of a two-bedroom dwelling which may be advantageous to first time buyers or older residents looking to downsize, although there is no mechanism before me to control the occupancy of the proposed dwelling to such residents. There would also be benefits to the local economy through the creation of temporary construction related jobs, and the on-going contributions of future occupants in terms of local spending and their use of local facilities. These benefits however would be modest due to the small scale of the development. Taking these points together, I conclude that the benefits of the proposal would not outweigh the harm identified, which carries considerable importance and weight.

¹ Council Reference 21/01758/HSE

² Drawing ID: TS001 Dated 7 May 2021

16. I conclude in relation to the first main issue that the proposed development would cause harm to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA causing harm to its significance and the significance of the NDHA. It would therefore conflict with Policies DM4 and DM8 of the CS which seek, among other matters, to ensure that developments respect its wider surroundings in relation to historic development patterns and protect and enhance the historic environment.

Highway and Pedestrian Safety

17. The appeal site will utilise the existing vehicular access to No 2 which can be approached from either Great Lane or York Street. The short access lane between York Street and the appeal site is not an all-purpose highway and has public footpath status. Both Great Lane and York Street are very much rural in character with the carriageway having a curved alignment and varying widths, with no separate pedestrian footway along their entire length.
18. The Local Highway Authority (LHA) considers that the lack of separate pedestrian facilities would pose harm to pedestrian safety, and that as the carriageway would not have adequate space in places for two vehicles to pass, to intensify the use of the highway would pose harm to highway safety.
19. As detailed above both Great Lane and York Street, along with the short access lane to the site, are rural in character. What I observed at my site visit was that traffic flows along here were low which is consistent with the evidence and submissions. The alignment and width of the highway provides a restriction which may affect driver behaviour in terms of vehicle speeds. The Highways Technical Note³ submitted as part of the application indicates that vehicles are likely to pass the site at a speed of around 15-20mph which would accord with my own observations.
20. Given the rural nature of the highway, its low traffic flows, and the modest vehicle speeds near to the appeal site I find that there could be safe pedestrian use of the highway. Indeed, the lack of a separate footway is common in rural areas where pedestrians will frequently walk along the carriageway, and there is no information before me which would indicate that occupants of the existing residential properties along Great Lane and York Street are at great risk should they walk along the carriageway in the immediate area. This is further supported by there being no recorded personal injury collisions in the area between 2011 and 2016 or between January 2016 and December 2020.
21. Both Great Lane and York Street already provide access to several existing residential properties. I acknowledge that, in places, the width of the carriageway is such that two vehicles will be unable to pass. The Highways Technical Note advises that the proposed dwelling would generate a maximum of one two-way vehicle movements during the morning and afternoon peak periods. These figures have not been disputed by the Council or the LHA. Given the location of the appeal site amongst existing residential dwellings I do not consider that the additional movements associated with the proposed dwelling would represent a significant increase, and any increase would be indiscernible on the surrounding highway network.

³ SCP Technical Note, Reference: SCP/210247/TN01, Dated 20 May 2021

22. I have carefully considered the comments raised by the LHA in respect of the lack of separate pedestrian facilities and that, in places along the carriageway, there would not be space for two vehicles to pass. However, from my own observations on site and given the prevailing road conditions, I do not consider that the provision of one additional two-bedroom dwelling would result in an unacceptable impact on highway or pedestrian safety.
23. For these reasons in relation to the second main issue, the proposed development would not adversely affect highway or pedestrian safety. Therefore, the proposed development would accord with Policy DM4 of the CS which seeks, amongst other things, to ensure that new development is not detrimental to highway safety. Furthermore, it would accord with paragraphs 110 and 111 of the Framework which states that safe and suitable access to the site should be achieved for all users, and that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

24. The Council has referred to the potential impact of the proposed development on the setting of the nearby Grade II listed building York House, located a significant distance to the southeast of the appeal site. However, views of the listed building from the appeal site are blocked due to the presence of several buildings and trees. Consequently, given the distance and the lack of inter-visibility between the sites, the proposed development would preserve the setting of the listed building.
25. The appellant has referred to other planning permissions⁴ within the CA which are considered to permit developments which are of significantly greater scale and impact than the appeal proposal, with some situated in backland locations. I do not have the full details of these developments before me and therefore I cannot be certain that there is any direct comparison between the proposal and these planning permissions.
26. Although there may be examples of other non-linear and backland development in the CA, the EMCAA notes that *'From the mid-20th century onwards, development has often been at odds with the pre-existing urban grain'* adding that features such as cul-de-sacs have caused harm to the character of the CA. Therefore, rather than setting a precedent for the appeal proposal such examples highlight how inappropriate development can have an adverse effect on the character and appearance of the CA.
27. The Council's approach to making their decision within their officer report was to consider that given the inconsistency of housing policies within the CS with the Framework, paragraph 11(d) of the Framework was engaged. As such, they considered, in line with paragraph 11(d)(i), that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
28. However, the most important policies within the CS for the determination of this appeal are DM4 and DM8, which seek to ensure that developments achieve

⁴ Council References 18/00851/FUL, 19/00388/FUL

a high-quality design, protect the historic environment and are not to the detriment of highway safety. These policies are broadly consistent with the Framework, and as a result, I afford substantial weight to any conflict with these policies in the determination of this appeal. Furthermore, even if the Council's approach were adopted, the effect of paragraph 11(d)(i) means that permission should not be granted if policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Given my conclusion on the first main issue, the balance required by paragraph 11(d)(ii) is unnecessary to undertake.

Conclusion

29. I have identified that the proposal would neither preserve nor enhance the character or appearance of the CA and would also result in harm being caused to the significance of the NDHA. Whilst the development would be acceptable in terms of its effect upon highway and pedestrian safety and would not result in any further harm being caused, this is of neutral effect and as such would be incapable of outweighing the great weight that I am required to give to the conservation of the designated heritage asset.
30. The proposal would conflict with the development plan as a whole, and there are no material considerations to outweigh it. The appeal is therefore dismissed.

David Jones

INSPECTOR