



Appeal Decision

Site visit made on 15 November 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/A3010/W/22/3300842

The Dale/Windle House Gap, Broomhill Lane, Everton, Doncaster, South Yorkshire DN10 5DG

- 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 Richard Troop against the decision of Bassetlaw District Council.
 - The application Ref 21/00438/OUT, dated 22 March 2021, was refused by notice dated 10 December 2021.
 - The development proposed is described as: 'Outline Planning Application with some matters reserved (Approval Sought for Landscaping) for 5 no. dwelling houses (resubmission of application 20/00602/OUT)'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Richard Troop against Bassetlaw District Council. That is subject to a separate decision.

Preliminary Matters

3. I have taken the description of development from the appeal form in the interests of clarity and brevity.
4. The appellant has provided additional supporting information in the form of a noise survey and a zone of theoretical visibility map at the appeal stage in order to address the Council's reasons for refusal. However, it is important that what is considered at appeal is essentially what was considered by the Council in making its decision. Given the lack of formal consultation I have concluded that it could be prejudicial to the interests of interested parties to take these additional documents into account. In making this decision I have taken into account that the potential for disturbance from noise and the effect on the landscape are key concerns of numerous parties that commented on the application. Therefore, in the interests of fairness, I have determined the appeal on the basis of the documents on which the Council made its decision.
5. The planning application was submitted in outline form seeking approval for landscaping with scale, access, layout and appearance reserved for future consideration. Nevertheless, the appeal application included various options indicating different means of accessing the appeal site from the highway in line with paragraph 5 (3) of the 2015 Order¹ and notwithstanding that access is a

¹ Town and Country Planning (Development Management Procedure) (England) Order 2015.

reserved matter. The Council determined the application on the basis of the indicative plans termed 'Option 3'.

6. Option 3 included a site layout plan indicating the use of an access onto Mattersey Road between the dwellings of Meadow Side and Springfields. This access has been approved² by the Council as part of a separate housing development that is now under construction. The appeal site is intended to be accessed from this point by a new straight section of road extending for around 117 metres along the edge of a field adjacent to the rear boundaries of properties along Mattersey Road. As access is a reserved matter, no detail with regard to sightlines or circulation routes within the site have been provided.
7. I have determined the appeal on this basis, treating the submitted plans and details provided as indicative, insofar as they relate to scale, access, layout and appearance.
8. The appeal application follows an earlier refusal of outline planning permission³ on the same site. This was dismissed at appeal⁴ on 14 August 2017 as the Inspector found harm to the living conditions of local residents and to the character and appearance of the area.

Main Issues

9. The main issues are:
 - whether the location of the appeal site would be acceptable for the proposed development having regard to the development plan policies and the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties with particular regard to noise and disturbance.

Reasons

Character and Appearance

10. The Council considers that, due to the age of the Bassetlaw Core Strategy and Development Management Policies DPD (adopted 2011) (the LDF), the policies within the Everton Neighbourhood Plan (made 2021) (the ENP) and the Policies DM4 and DM9 of the LDF are the most important for the determination of this appeal. I see no reason to disagree with this approach. It is common ground between the parties that the proposal would not cumulatively increase the number of dwellings in the Parish by 20% or more when in combination with other development built or committed in the Parish area. This is in line with Policy E8 of the ENP.
11. Policy E8 supports residential infill development and small-scale schemes of up to nine dwellings in, or adjacent to, the existing built form of Everton village, subject to a number of criteria set out in the policy. These include, amongst other things, that new development relates well to the immediate local context,

² Ref 17/00635/OUT.

³ Ref 16/01656/OUT.

⁴ Ref APP/A3010/W/17/3173194.

and would not have an adverse impact on the landscape character of surrounding countryside and farmland.

12. Policy DM4 of the LDF sets out that development should respect its wider surroundings in relation to historic development patterns and landscape character. LDF Policy DM9 seeks to ensure proposals for new development in and adjoining the countryside are designed so as to be sensitive to their landscape setting.
13. The appeal site is the southern part of an agricultural field located on the fringes of the settlement of Everton. The field is partly enclosed by a hedge. Public rights of way (PROWs) run adjacent to the southern and western boundaries of the field. The PROW to the south is an unmade single track known as Broomhill Lane. With agricultural land to both sides and bounded by a hedgerow, this lane has a distinctive rural character. In views gained across the appeal site from Broomhill Lane, the site is seen as part of a collection of fields forming attractive open countryside that contributes to the rural setting of Everton. This rural character is also evident on views on approach towards the settlement along Mattersey Road, from where the site and lane can be seen.
14. The appeal site lies within the Idle Lowlands Policy Zone 04 as described in the Bassetlaw Landscape Character Assessment (the LCA). The open views present across the appeal site are characteristic of the Idle Lowlands and contribute to local distinctiveness. The LCA guides that the rural character of the Idle Lowlands should be conserved and reinforced by concentrating new development around existing settlements.
15. The immediate area around the appeal site and to this side of Everton is characterised by ribbon development along both sides of Mattersey Road with open countryside beyond. The appeal site lies immediately to the west of houses along Mattersey Road. The linear nature of existing housing development here is evident in views from Broomfield Lane. Development along this part of Broomfield Lane is limited to a single dwelling some distance along the lane. This is separated from the main built form of Everton by agricultural land, the majority of which comprises the appeal site.
16. Notwithstanding that it has been submitted in outline form, the proposal would likely result in ribbon development infilling the space between houses along Mattersey Road and the more isolated bungalow along Broomhill Lane. This would represent a significant extension of the built form, that would be at odds with the otherwise linear development along Mattersey Road.
17. The construction of the proposed development on the appeal site would significantly intrude into the rural landscape to the detriment of the character and appearance of Broomhill Lane. I am mindful of the outline nature of the proposal, and that the appellant considers that compliance with design policies can be addressed at the reserved matters stage. However, the inevitable provision of internal roads, driveways, gardens and the introduction of domestic paraphernalia would be highly visible and urbanise the setting here, distinctly at odds with the open rural character.
18. Furthermore, built development along Broomhill Lane would interrupt the open views possible across the appeal site that are characteristic of the Idle Lowlands. As such, whilst the proposal would lie close to the settlement of

Everton, it would not conserve or reinforce the rural character for the reasons set out above. This would be contrary to the guidance in the LCA. Moreover, I accept that the ENP expects some housing development around the settlement, however I have seen no evidence that such development should be directed to this particular part of the village or that it should take the form of that before me.

19. The appellant has stated that views of the development would be limited by retained and planted boundary hedges. However, given the scale of the development, the urbanisation of the rural setting and the conflict with the built form would still be highly evident in places, above and through the hedge, particularly when it is not in leaf. Furthermore, I cannot be certain that the hedge would remain in the future. In this regard, on the site visit I saw that hedges had been removed from the rear of houses along Mattersey Road, presumably to open up views of the surrounding landscape.
20. I therefore conclude that the location of the appeal site would not be acceptable for the proposed development due to the significant harm that would occur to the character and appearance of the area. Therefore, the proposal would conflict with Policy E8 of the ENP and Policies DM4 and DM9 of the LDF, described above.
21. There would also be conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which sets out that planning decisions should ensure new developments function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and are sympathetic to local character, including the surrounding built environment and landscape setting. Conflict would also occur with Framework paragraph 174 which seeks to ensure planning decisions contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Living Conditions

22. Houses along Mattersey Road tend to be set back from the road edge behind sizeable driveways. Rear boundaries with the open countryside tend to be hedges, although some of these have been trimmed or removed as referred to above. Noise levels within rear gardens are consequently likely to be reasonably low. Whilst some noise will inevitably arise from the new access serving the approved development, local residents would reasonably expect these existing noise levels to be protected, particularly those closer to Broomhill Lane.
23. Whilst I am mindful that access is a reserved matter, the provision of a new access running through the field to the appeal site would pass close to the rear boundaries of at least five dwellings. As such, the vehicular traffic generated by the proposed five dwellings would pass by the rear of the Mattersey road dwellings. This would result in a significant increase in noise and disturbance to the rear of these properties compared to the existing situation, adversely affecting living conditions.
24. I have had regard to the comments of the Environmental Health Section, however their comments assess the likelihood of the development creating a noise nuisance. Statutory noise nuisances are dealt with under environmental protection legislation, whereas I have a broader duty to consider the living

conditions of local residents, having regard to planning policy. Furthermore, an adverse effect on living conditions from noise and disturbance can often occur at lower levels of emission than would constitute a statutory nuisance. It is therefore important to consider the effect on living conditions in its wider context through the planning process and not just from the narrow perspective of statutory nuisance.

25. The appellant has drawn comparison with the development now under construction to the north noting that the Council found no harm to living conditions from noise and disturbance here. However, I have not been provided with the full details of this approval and I therefore cannot be sure if the policy context, any pre-existing development, extant permissions, or existing noise levels were the same. I also note that this decision was taken some time before the latest revision to the Framework.
26. I therefore conclude that the proposed development would result in significant harm to the living conditions of occupiers of properties along Mattersey Road, with particular regard to noise and disturbance. The proposal would conflict with Policy DM4 of the LDF which seeks to ensure new development is of a high-quality design that does not have a detrimental effect on the residential amenity of nearby residents. Conflict would also occur with Framework paragraph 130 which seeks to ensure planning decisions create places that provide a high standard of amenity for existing and future users.

Other Matters

27. The appellant considers that potential for biodiversity enhancement through the proposed landscaping could result in benefits. Whilst biodiversity enhancement is a policy requirement, a significant enhancement above the policy requirements could constitute a benefit. However, this would be inevitably limited by the scale of the area that would be enhanced. The construction of five dwellings would make a small contribution to the existing housing stock. As such the benefits of the scheme in this regard, and in respect of employment during construction and future residents bringing trade to local services and facilities, are limited. Furthermore, the Council states it can demonstrate a 5-year supply of deliverable housing sites which I have no reason to doubt. However even were that not in existence, on the basis of the evidence before me the likely adverse impacts, notably the harm to the character and appearance of the area and the effect on living conditions of local residents, would significantly and demonstrably outweigh the benefits.
28. As a consequence, no other material considerations are sufficient to outweigh my overall assessment, reasoned above, regarding the unacceptability of the development proposed.

Conclusion

29. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR