



Appeal Decision

Site visit made on 2 May 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 07 July 2023

Appeal Ref: APP/A3010/W/22/3306510

**Keepers Cottage, Main Street, Milton, Newark, Nottinghamshire
NG22 0PP**

- 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 Mrs E Cunningham against the decision of Bassetlaw District Council.
 - The application Ref 22/00712/FUL, dated 23 May 2022, was refused by notice dated 15 July 2022.
 - The development proposed is the replacement of a bungalow with a 3 storey dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the area; and,
 - the effect of the proposal on the living conditions of the occupiers of neighbouring caravans; and,
 - the appellant's need for the proposed house.

Reasons

3. The bungalow that would be replaced is located immediately behind the front boundary wall serving Longbow Caravan Park and next to its entrance gate. The caravan park and bungalow are located within the countryside. It is common ground between the parties that, in principle, the proposed development is acceptable. I agree with that assessment.
4. There is a difference of opinion between the local planning authority (LPA) and the appellant as to why the proposal is acceptable in principle. The LPA relies on policy DM6 of the Core Strategy and Development Management Policies Development Plan Document (CS&DPD), which supports the provision of sites for gypsies and travellers, on the basis that the appeal site forms part of an established gypsy and traveller site. In contrast, the appellant relies on policy DM3 of the CS&DPD which, amongst other matters, supports replacement dwellings in the countryside. The appellant states that this is because the caravan park is in a different, albeit inter-related ownership, and is a tourist caravan park rather than a registered gypsy site. Having regard to the wording of both policies, I consider that policy DM3 of the

CS&DPD is the most relevant policy as it relates to replacement dwellings. Accordingly, I have dealt with the appeal on this basis.

Character and appearance

5. Touring caravans and two static caravans occupy the caravan park. Other than for the bungalow, the only other building I saw on the site was a single storey utility block. With hedged fields on its western side and to the rear, and another caravan park on its eastern side, the caravan park is located within the open countryside out of view of houses closely associated with the small settlement of Milton to the south-west. On the opposite side of the street are a series of buildings that provide services to travellers using the A1. These buildings either face the A1 or, as is the case with the truck stop, are set well back from Main Street. As a result, they relate more to this major road than to the caravan parks on the southern side of the street which are surrounded on three sides by hedged fields.
6. The caravan park on which the appeal site is located, the fields to the west and the village of Milton to the south form part of the Sherwood Policy Zone SH53 in the Bassetlaw Landscape Character Assessment. Policy DM9 of the CS&DPD requires development proposals to be sensitive to their landscape setting and to enhance distinctive qualities by conserving landscape features. In the case of Policy Zone SH53, this means containing new small scale development within historic enclosed boundaries. In relation to residential schemes, I have taken small scale to mean a limited number of dwellings. As the proposal is for a single house, and the proposal is contained within the existing boundaries of the caravan park, which appears to follow the historic pattern of fields, it would comply with this policy.
7. The bungalow that would be replaced is positioned just behind the common front boundary fence to the appeal site and caravan park. Despite the prominent position of the bungalow next to the caravan park entrance, its low height, gently sloping roof and set down in relation to Main Street means that its scale complements the caravan park. As a result, when driving along Main Street approaching the site from the west, the overriding impression until directly passing in front of the site is of a quiet rural lane enclosed by field hedges.
8. In accordance with policy DM3, the proposed house would be located over the footprint of the existing bungalow. However, with its third storey contained within its roof, deep flank walls, a steep gable ended roof and attached projecting garage with bathroom above, the dwelling would be a particularly large four bedroom house. Even though it would be set at a lower level than buildings to the east, the very large size of the house and its position close to the road would dominate Main Street to the extent that the house would be inappropriate to its setting and surroundings.
9. Whilst the use of materials in the construction of the dwelling would be sympathetic to the visual amenity of the locality, this would not overcome the significant adverse effect that would be caused to the character and appearance of the area.
10. The neighbouring caravan site to the east includes what appears to be a large dwelling with a steeply pitched roof. However, as it is a single storey building set well back from the road it is not as dominant within the street scene as the proposed dwelling would be.

11. Taking all these matters into account, I therefore conclude that the proposed house would unacceptably harm the character and appearance of the area, contrary to policies DM3 and DM4 of the CS&DPD. Read together, these policies support the replacement of a dwelling in the countryside subject to the proposed scheme protecting the character and appearance of a locality through high quality design that respects local design features and the scheme being sensitive to its landscape setting.

Living conditions

12. The single storey height of the existing bungalow offers limited scope for overlooking of the touring caravan pitches to the rear. However, the dormer windows within the rear roof slope of the proposed house and the large rear first floor balcony would greatly increase the extent to which these pitches would be overlooked. In my judgement, this would result in unacceptable living conditions on a significant number of pitches. Increasing the separation distance or altering the orientation of the caravans would improve matters. On the basis though of what I have read and seen, I am not satisfied that this could occur without a significant reduction in the number of pitches on the site which would be to the detriment of its function as a caravan park.
13. For the reasons given, I therefore conclude that the proposed development would have a demonstrably harmful effect on nearby living conditions. This would be contrary to policy DM4 of the CS&DPD which, amongst other matters, seeks to prevent such harm.

Need for the proposed house

14. The appellant states that she needs a larger dwelling to accommodate her and her husband together with their adult children and grandchildren, who traditionally seek to live together under one roof when certain family members are not travelling away from home. I am sympathetic and attach significant weight to the family's situation. However, their circumstances in time are likely to change, whereas the proposed house would remain and continue to harm the character and appearance of the area and nearby living conditions.
15. Under Article 8 of the European Convention on Human Rights, as set out under the Human Rights Act 1998, the appellant and her family have the right to respect for their private and family life and home. These are qualified rights though and interference with them in this instance would be in accordance with the law and in pursuance of legitimate aims: namely, the protection of the character and appearance of the area and nearby living conditions. Moreover, as the family have been able to live together in the existing bungalow, albeit in less than ideal circumstances, they will not be made homeless if planning permission is refused.
16. Decision makers are required by the Public Sector Equality Duty (PSED), set out in section 149 of the Equality Act 2010, to have due regard to advancing equality of opportunity and to eliminate unlawful discrimination in relation to, amongst others, gypsies, travellers and children.
17. I have had due regard to the PSED in considering the information provided by the appellant regarding the housing needs of her family. However, as it has not been demonstrated that this need could not be met by a lesser scheme which complements the character and appearance of the area and does not harm nearby

living conditions, I attach little weight to the equality implications of the proposal in favour of the appeal.

Conclusion

18. The proposed replacement of the dwelling is acceptable in principle and would involve the use of previously developed land which is supported by the National Planning Policy Framework. In compliance with the development plan the site also has safe highway access and is not at risk of flooding. However, the demonstrable harm that would be caused to the character and appearance of the area and to living conditions would be in conflict with policies DM3 and DM4 of the CS&DPD. As a result, I find that the proposal would be contrary to the development plan considered as a whole.
19. The other considerations put forward and identified in favour of the proposal, namely that it would be close to services and facilities and would meet the accommodation needs of the extended family, are insufficient to outweigh the harm that would be caused and non-compliance with the development plan. Material considerations therefore do not indicate that the proposal should be determined other than in accordance with the development plan.
20. For the reasons set out above, I therefore conclude that it is proportionate and necessary to dismiss the appeal. There will be no violation of the appellant's or her family's human rights and the protection of the public interest cannot be achieved by means that are less interfering with these rights.

Ian Radcliffe

Inspector