



Appeal Decision

Site visit made on 19 February 2025

by **Richard S Jones BA(Hons), BTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 April 2025

Appeal Ref: APP/H0520/W/24/3346741

Land south of Hill Place, Brington, PE28 5BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Andy Girvan (Campbell Buchanan) against the decision of Huntingdonshire District Council.
 - The application reference is 23/02123/FUL.
 - The development proposed is erection of three houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the development on the living conditions of the occupiers of No 16 The Green (hereafter referred to as Plot 9), with particular regard to privacy.

Reasons

Character and appearance

3. The main part of the appeal site comprises open land between two parts of an attractive residential development of 56 dwellings¹, formed by Hill Place to the north and The Green to the south.
4. The residential development sits within a rural setting being largely surrounded by agricultural fields. As part of the planning permission for the 56 dwellings, this central section of land was to be retained as planted open space. The Council explains that the approved landscaping plan for the land annotates it as an orchard. However, such planting has yet to be carried out in the main part of the site and its present, somewhat neglected appearance detracts from the overall character and appearance of the development.
5. A previous application for four bungalows and two chalet bungalows on the land was dismissed at appeal in May 2021², the Inspector finding significant harm to the character and appearance of the area.

¹ Granted planning permission in October 2014 (ref 1300679)

² Appeal Ref: APP/H0520/W/20/3262053

6. In his decision, the Inspector described Brington as a small, relatively loose knit settlement, with groups of housing separated by areas of undeveloped land. He found that the appeal site, by separating Hill Place and The Green with an area of landscaped tree planting as planned, would complement the built form of the village. He also states that on approaching the development from Brington Road, the appeal site, once laid out, would form an attractive feature separating the two groups of houses, emphasising the rural, more dispersed built-up nature of the area, as well as providing a pleasant route for the public right of way (PRoW), (which runs from the main site access all away across the northern edge of the appeal site to its western extent). Based on my own observations, I find no reason to arrive at a differing assessment of the site and its surroundings.
7. As evidenced in the appellant's existing viewpoint photograph taken close to the main entrance to the site, the existing trees and hedging along the western boundary largely preclude or at least heavily filter views of the agricultural fields beyond. However, that screening was noticeably less effective during my wintertime site visit when the trees were not in leaf. In any case, even when it is not possible to see the actual fields, it is readily apparent that there is an absence of built development beyond the site and that the land to the west runs into open countryside, thereby reinforcing the spacious and rural setting to the development.
8. Whilst there may be an over provision of open space within the development as a whole, as pointed out by the previous Inspector, the relevant standard is not a maximum and a scheme may quite properly include a generous level of provision to improve its overall attractiveness and to be more in character with its rural setting, as in this case.
9. The current proposal is for three dwellings in the western part of the site. Plots 2 and 3 would be two storey and broadly follow the alignment of the existing dwelling to the north in Plot 17 on Hill Place. Plot 1 would be positioned in front of Plot 2, fronting onto Hill Place. The remainder of the main part of the site would remain as an orchard with a tighter, tree buffer belt on the more steeply sloping sections.
10. In support of the appeal, the appellant has produced CGI visualisations of the proposal from the same viewpoint discussed above, at year 9, with and without the proposed dwellings. Those show that with a fairly large tree positioned towards the centre foreground of the viewpoint during summertime, there would be a limited change. I appreciate that viewpoint was chosen in response to the previous Inspector's comments, and I agree that it is a key view. However, the visualisation is not representative of the actual harm that would arise from the loss of that undeveloped vista in other important views in and around the remaining orchard and from the PRoW which runs across it.
11. Although I recognise Plot 1 would be a bungalow, the immediate backdrop would be two storey scale houses on Plots 2 and 3. Their combined built form, along with the proposed detached garages would visually and physically close/coalesce the gap between the two parts of the development.
12. Whilst the physical change would be confined to the western part of the site, and the eastern part of the orchard would remain open, the continuous separation, which is clearly crucial to maintaining the distinction between the two groups of housing and which provides a visual connection to the undeveloped open countryside beyond, would be lost. Moreover, infilling part of the land would

significantly erode the existing degree of openness and spaciousness, which make a very significant contribution to the overall quality of the development.

13. Whilst half as many units and a lesser land-take is currently proposed compared to the earlier appeal scheme, a significant amount of the planned open space would still be lost, and the overall value of the remaining space would be significantly compromised. Instead of open land and a natural field type boundary at the western end of the site, the development would introduce built form and screen fencing between the retained orchard and the edge of the development, disconnecting the open space from the open countryside beyond. The retained orchard, once established, would soften the impact in part, but that would likely take a considerable period of time and the physical harms would remain, eroding the original design strategy of the site which evidently is to provide two distinct groups of houses, set in extensive areas of open space.
14. The development would be particularly harmful to users of the PRow as it would replace the existing attractive vista towards undeveloped open countryside in approaching views. Moreover, in the western part of the site, instead of a pleasant, open environment users would be largely hemmed in by the housing and/or the associated fencing. Existing open views of the open countryside to the east would also be lost for users of the PRow from the western side of the site.
15. Putting to one side the significant harm arising from closing the gap, Plots 2 and 3 at least broadly follow the building line of the existing properties to the north. However, the siting of Plot 1 would appear particularly arbitrary and poorly related to the wider development. It would very obviously appear out of place and as a clear afterthought, siding onto the open space.
16. I note that the first reason for refusal refers to artificial ground levels but the appellant's position is that the existing levels of the site, as proposed to be altered, should be the basis of assessing the acceptability of the proposed development.
17. In broad terms, the existing land gently slopes from north to south before falling more sharply towards its southern edge, where it meets the boundary to the rear gardens of the properties fronting onto The Green.
18. I understand the privacy reasons why a line of 1.8m high close board fencing is proposed at the top of the bank, but that would appear as a contrived and unattractive feature in its own right, which would further reduce the sense of openness and detract from the setting and overall value of what would remain of the open space. That harm is not reflected in the CGIs as the fence is not shown.
19. I note the appellant's argument that the southern boundary of the open space is already enclosed by the rear boundary fences to the properties fronting onto The Green, but the conventional enclosure of rear gardens does not look out of place. In comparison, a parallel enclosure of land identified as open space with domestic fencing would appear contrived and as a clear retrofit.
20. The continuation of that approach would also appear contrived and unattractive in the area between the front of proposed Plot 3 and the side of Plot 9. That, along with the Plot 3 dwelling and its associated fencing would largely infill and enclose the open land linking the central open space with the equipped open space at the western part of The Green, thereby largely removing the visual connectivity

between the two parts, and resulting in the loss of the existing sense of spaciousness.

21. I therefore find that the proposed development would result in very significant cumulative harm to the character and appearance of the area, contrary to Huntingdonshire's Local Plan to 2036 (HLP) Policies LP 2, LP 9c, LP 11, LP 12 and LP 32 and Huntingdonshire Design Guide Supplementary Planning Document - 2017. Those state, amongst other things, that a proposal that would lead to the whole or partial loss of an area of open space of public value will only be supported where there would be no significant adverse impact on the character of the surrounding area.

Living conditions

22. The western part of the appeal site extends further south incorporating the open land wrapping around the side of Plot 9, to a line broadly commensurate with the rear of that dwelling and the back edge of a tennis court.
23. The existing (topographical) site plan shows that the central section of the site is around 3.5m higher than the ground levels of plot 9. Although existing levels do not appear to be shown at the western part of the site, that too is similarly elevated above Plot 9, and that is reflected in the proposed sections. The appellant states that scaling those sections shows a 3m difference in height. I note the Council questions the accuracy of the topographical data but I have no evidence to show that is incorrect.
24. The front elevation of the proposed dwelling at Plot 3 would therefore directly face onto the rear garden of Plot No 9 from an elevated position and with a separation distance of just over 13m. Without mitigation, that would allow for a significant and unacceptable degree of overlooking and resultant loss of privacy for the occupiers of Plot 9.
25. As part of the scheme, the appellant proposes to address that harm by erecting a 1.8m screen fence towards the top of the bank along with intervening tree planting, thereby precluding a line of sight into the rear garden of Plot 9 from the ground floor living room of Plot 3. Unacceptable overlooking would also be precluded from the first floor as the only front facing window would serve a landing area, rather than a habitable room. It could also be conditioned that the window be obscure glazed. The only front facing roof light would be to serve a bathroom and would be positioned above eye level.
26. On that basis, the development would not result in unacceptable harm to the living conditions of the occupiers of Plot 9, through overlooking and loss of privacy, and would not conflict with HLP Policy LP 14b. That states, amongst other things, that a proposal will be required to ensure the physical relationships arising from the design and separation of buildings will not result in overlooking causing loss of privacy.

Other Matters and Planning Balance

27. I have found that the combined built form of the proposed dwellings, garages and associated fencing would result in very significant harm to the character and appearance of the residential development as a whole.

28. The scheme has been designed to avoid unacceptable overlooking into the rear garden of Plot 9. However, the manner of the fenced mitigation would result in further significant harm to the character and appearance of the area.
29. I understand that the appellant submitted the appeal scheme in response to an invitation from a number of residents who felt that their views had not been represented in the consideration of the previous application and that this revised scheme, developed in collaboration with the community, seeks to address the existing overlooking from the open space to The Green.
30. In that regard, I saw that due to the elevation of the main part of the appeal site over the rear of Plots 9 to 16, significant overlooking occurs. The proposed 1.8m screen fencing positioned at the top of the bank would resolve that harm and I recognise the representation in support of the scheme for that benefit.
31. Again, however, the manner of that mitigation would seriously compromise the quality of the open space and its contribution to the development as a whole, thereby resulting in additional significant harm to the character and appearance of the area. Also, it is not shown that other options for protecting privacy have been considered, which would avoid the harm described.
32. Moreover, the Council states that the site has been subject to a significant rise in levels and if the site was regraded with a more natural slope (as previously existed on the site) the requirement to fence off this area would be obviated. As no details of the previous land levels have been provided to substantiate that position, I cannot conclude whether or not that is the case. Nevertheless, as several residents have referred to land levels being raised, it is very likely that doing so will have contributed to the existing levels of overlooking.
33. The appellant also confirms that the condition discharge details, which outlined the approach to soft landscaping, specified that planting would occur in the first planting season post-commencement. However, the appellant acknowledges that the orchard land has not been planted according to the approved condition discharge details. The Council further explain that permission reference 15/01700/S73 included a “variation of condition 4 (soft landscaping) to allow for reinforced planting along the boundary of Plots 9-16”.
34. Had the planting been carried out in accordance with the approved details, it is likely that the trees would be closer to a point of maturity whereby overlooking mitigation might occur. Indeed, an objector refers to numerous wasted growth years, whilst another refers to being led to believe there would be a buffer of trees planted and this has not happened in the seven years that they have lived in their property.
35. It is therefore likely that existing levels of overlooking have been exacerbated by an increase in land levels and by the failure to provide planting which would mitigate that harm. The harm to the character and appearance of the open space and the development as a whole, and the circumstances described, therefore clearly outweighs the benefits to the screen fencing to the occupants of Plots 9 to 16.
36. Whilst I fully acknowledge the representation submitted in support of the appeal proposal, it is clear that some of that support is borne out of residents having spent years looking at the unkempt area of open space and they just want the

development to be completed. Indeed, despite being in favour of the scheme in principle, the Parish Council believe the land should be an orchard as planned but understand the frustrations of residents that they want to see the development completed without further delay.

37. However, as the current unkempt appearance of the site appears to be as a direct result of not complying with approved details, that should not be reason or justification for allowing the current scheme insofar as it would address that harm. Moreover, objections have been made to the application on the basis of the developer having failed to comply with the original planning permission to provide an orchard and buffer zone over the site.
38. The Council has also issued an enforcement notice which requires compliance with approved landscaping details for the application site, as well as restoration of land levels. Although an appeal has been made against that notice, that was made only in relation to the requirement to restore land to its original levels, rather than the planting requirements. Compliance with the notice will therefore address residents' concerns over the appearance of the open space, so that it is not necessary to rely on the current proposal to provide landscaping, which should have been provided anyway. There is therefore no benefit to the scheme in that regard.
39. The Council highlights that the wider development for the 56 dwellings is regarded as being within the built-up area of Brington, which is defined as a Small Settlement by HLP Policy LP 9. That policy states that a proposal located within a built-up area of a Small Settlement will be supported where the amount and location of development proposed is sustainable in relation to matters which include criterion c., relating to the effect on the character of the immediate locality and the settlement as a whole. For the reasons explained, the scheme fails to meet that criterion. Consequently, the development does not garner support from HLP Policy LP 9. However, I do not consider that translates to being unacceptable in principle, as stated by the Council.
40. The appellant highlights that the current scheme also includes an attenuation basin at the eastern side of the site, in response to the Parish Council and community requests to address local drainage concerns relating to surface water flooding from adjoining land.
41. The Council states in its officer report that "A considerable benefit of the scheme would be that the applicant proposes to use permeable paving and swales as a means of attenuating and conveying surface water on the site. The application also seeks to provide wider SuDS benefits by providing additional attenuation storage to manage surface water runoff from the field to the north of the proposed swale. This means that flood water should not be displaced outside of the site, therefore minimising any increased risk of flooding to the surrounding area."
42. The Council further states that "This betterment of flood risk and drainage measures which include a basin to serve the wider site outside of the site plan is regarded to provide a significant social and environmental benefit to the site and wider development in flood risk and drainage terms. Consequently, it is considered that the development would likely improve flooding and surface water issues on the site for neighbours beyond what would be required to make this proposed development of 3 dwellings acceptable."

43. I also note the representation in support of the proposal in that improvements to the drainage would benefit the residents of the development and the wider village community.
44. I find no reason to take a contrary view insofar as the proposal would provide significant benefits over the existing situation in terms of flood risk. However, in terms of on-site surface water issues, and the weight that should be applied to any benefits arising, I am very mindful of the highly plausible submission of a resident of The Green, whose property backs onto the site and who refers to the surface flooding being caused by dumping land spoil at the back of his/her house in 2017 and pounding it into a plateau. Another resident of The Green similarly refers to his/her house being flooded on three occasions and who believes that is due to the extra clay soil which has been brought onto and dumped on the site and then compacted, thereby resulting in runoff into that property.
45. I note the support for the scheme citing security benefits, but I saw that the site already has a good level of natural surveillance, and no evidence is provided which indicates a particular issue with crime or anti-social behaviour in the area. As per the previous Inspector's comments, with an appropriate planting scheme on the sloping land and the site as a whole, together with suitable site management, there is no reason why security would be a significant problem.
46. The development would provide economic benefits derived from the associated building works, although such benefits would be short term, thereby attracting limited weight. The occupants of three dwellings would contribute to the social and economic sustainability of the Small Settlement. The development would also increase housing supply by three units. Combined, those factors attract moderate weight.
47. Support is also given on the basis that residents' maintenance costs would be lower by virtue of a smaller orchard area. However, whilst there is a clear logic to that, I have no details of the relative costs.
48. A number of the letters submitted in support of the scheme refer to a survey carried out in July 2023 of all residents of the development and that from a 65% response rate, 91% were in favour of a three house development and orchard area on the appeal site. Whilst I have not been provided with details of that survey, I recognise the support for the proposed development. However, there are objections too and I find that the totality of the benefits, although significant, do not outweigh the very significant cumulative harm which would arise to the character and appearance of the area.

Conclusion

49. For the reasons given above, and having considered all other matters raised, I conclude that the proposal would be contrary to the development plan as a whole and material considerations do not indicate that the appeal should be determined otherwise than in accordance with the development plan. The appeal should be dismissed.

Richard S Jones

INSPECTOR