
Appeal Decision

Site visit made on 13 February 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th March 2017

Appeal Ref: APP/Y2430/W/16/3160029

8 Brook Farm, Nether End, Great Dalby, Leicestershire LE14 2EY

- 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 Steven Archer against the decision of Melton Borough Council.
 - The application Ref 16/00046/FUL, dated 21 January 2016, was refused by notice dated 13 September 2016.
 - The development proposed is erection of a new 2 storey 3 bedroom dwelling with adjoining garage, new vehicular access and parking arrangements for adjoining property.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the surroundings, including whether it would preserve or enhance the character or appearance of the Great Dalby Conservation Area.

Reasons

3. Great Dalby is a pleasant rural settlement of a composite linear form. More recent housing has consolidated around, and expanded beyond, the core historic parts which mainly stretch either side of Burrough End to the south and Nether End to the north. Nether End follows a stream which crosses under the road partway along to run in front of the development along its southern side. 8 Brook Farm is an attractive traditional dwelling which fronts onto this southern side of Nether End and is set back beyond the roadside stream.
 4. No 8 is connected to No 10a, a barn conversion, which forms of block of older development. Housing development continues beyond this alongside the stream, falling away from the road as it progresses east, and includes further residential barn conversions and development in depth. Adjacent and to the west of No 8 is an associated garage block and to the rear is a wide area of pasture containing a few mature orchard trees. To the west of the pasture is further development in depth at Chestnut Tree Farm, where the farmhouse fronting the street has two new dwellings (4c and 4d Nether End) to its rear, which occupy the site of a former barn.
 5. The boundary of the Great Dalby Conservation Area expands beyond the built-up parts of the village to include adjacent areas of countryside, including
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the pasture area to the rear of No 8. The significance of the conservation area relates to its historical character and the relationship between the series of original dwellings and farmsteads and their related land holdings, and the later development that has coalesced around these. Through infill, redevelopment and conversions, new housing has occupied these farmstead areas, which in Nether End has created a pleasing mixture of traditional and more modern housing set back from the stream-sided road.

6. The proposal is for a new dwelling occupying a quite narrow western segment of the area of pasture to the rear of No 8. The house would be sited perpendicular to the street and immediately to the rear of the existing garage block. The dwelling would be of a quite modest scale and height, with first floor accommodation within the roofspace and floor-levels stepping up with the rising land gradient. The relatively narrow width and elongated form would mirror the agricultural character and position of the former farm buildings immediately adjacent to the west.
7. The house proposed would be in approximately the same position of one of the proposed units in an earlier scheme for five dwellings, which was dismissed on appeal¹ on 27 July 2015 and had related to the full extent of the pasture. This area of pasture forms a part of the wider backcloth of undulating countryside within the Great Dalby Conservation Area boundary. These undeveloped areas enhance the character of the conservation area by establishing historical connections between its built form and the surrounding farmland, with the attractive landscape setting providing a degree of openness and visual relief to the traditional development pattern.
8. Compared with the earlier scheme, this proposal would leave the larger part of the pasture undeveloped. Sited directly behind the existing garage block the new dwelling would be partially screened and result in the loss of only oblique views of undeveloped pasture, the remaining parts of which might be better appreciated visually from the road with the revised site access.
9. However, the fact that this proposal would be less prominent than the earlier refused scheme for five houses is not a positive merit and the single dwelling would still serve to erode part of an undeveloped area which is of historic value to the character of the village. Furthermore, the reduced visibility from a public vantage point along the street would not avoid all views from this perspective and, in addition, the development would remain quite prominent as seen from neighbouring properties. Consequently there would still be material harm to the appearance of the village and the conservation area.
10. I am not persuaded that the other backland developments in this part of Nether End, cited by the appellant, would provide any material weight in support of this proposal. This scheme has to be judged on its own individual merits and the evidence suggests that most of the nearby housing has evolved through the redevelopment, conversion or infilling of former farmsteads. In contrast the appeal site appears to be part of long-established open land that has historically been used as pasture and an orchard, and which has never been part of the built form of the village. That as the garden to No 8 the appeal site might otherwise be subject to the implementation of residential permitted development rights would provide scant justification for a new dwelling here.

¹ APP/Y2430/W/15/3006434

11. The proposal would not affect the front part of the site, over which access would be taken, that is designated in the Melton Local Plan (MLP) as part of a Protected Open Area (POA), which covers the wider green space alongside the stream that follows the road. However, this designation protects the pleasant open setting of the frontage development, which I consider fulfils a separate role to the undeveloped areas of countryside at the rear of development which provides a backcloth. Consequently, the fact the proposed dwelling would be outside the designated POA lends little material weight in favour of this proposal.
12. That the appeal site is not part of an area identified as suitable Local Green Space similarly lends little material weight in support of this proposal. The issue in this appeal is the effect of the development on the character and appearance of the surroundings, and that of the conservation area, and the suitability of the land as Local Green Space is a separate consideration.
13. The MLP was adopted nearly 18 years ago and so it is quite clearly an old plan. Nevertheless, Section 38(6) of the Planning and Compulsory Purchase Act 2004 still requires that the determination of this appeal be made in accordance with this plan, unless material considerations indicate otherwise. The appellant disputes the Council's latest position that the MLP provides for a 7.6 year supply of housing land². However, the proposal is for a single dwelling, and whether or not there is the five-year supply of housing land is not central to this decision. Consequently, I do not intend to reach a conclusion on this particular issue. However the National Planning Policy Framework (the Framework) remains an important material consideration. I shall apply paragraph 215, which requires that due weight be given to relevant MLP policies, according to their degree of consistency with the Framework.
14. MLP Policy OS2 concerns development in the countryside and seeks to prevent proposals outside defined village envelopes, except for specific criteria which this proposal would not meet. The Framework makes no reference to village envelopes and Policy OS2 seeks to protect the appearance and rural character of the open countryside. This proposal is just outside the village envelope for Great Dalby but is arguably not in open countryside. The proposal would be contrary to this policy in being a building located outside of the village envelope. However, the aims of this policy, to provide general protection to the open countryside from development, are of limited relevance to the concerns over the effect on the character of the village. The blanket restriction of development in the countryside is also not consistent with the more flexible approach to rural development provided by the Framework. Therefore, the conflict with Policy OS2 can be given only limited weight in this decision.
15. MLP Policy BE1 restricts the granting of planning permission for new buildings, unless specific design criteria are addressed. This policy is generally consistent with the aims of the Framework to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, taking account of the different roles and character of different areas. Whilst this policy can therefore be given substantial weight, the Council's reason for refusal does not relate to the design of the dwelling itself, which is intrinsically acceptable, but to the loss of part of an open area.

² Melton Borough Council Five Year Land Supply and Housing Trajectory Position 2 November 2016.

16. The effect of this proposal relates less to the requirement of Policy BE1 for the design of the dwelling to harmonise with its surroundings, and more with effect it would have on the character the area and whether this would preserve or enhance that of the Great Dalby Conservation Area. However, the degree to which this proposal would harm the rural character of the village by eroding part of its open countryside setting would, in my view, clearly conflict with the general aims of Policy BE1.
17. The proposal falls within the Great Dalby Conservation Area and the Framework requires that this decision should take account of the desirability of sustaining and enhancing its significance as a heritage asset. I have applied the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
18. The proposal would harmfully erode part of an area of pasture which provides an undeveloped backcloth to the built-up settlement, and which presently contributes positively to its visual appearance and provides the historical connection between the village and the surrounding countryside. The loss of part of this existing pasture would not preserve or enhance the character or appearance of the conservation area. Considerable importance and weight has to been given to the harm found to the character and appearance of the conservation area, with the presumption that preservation is desirable.
19. However, the harm caused to the Great Dalby Conservation Area by this single dwelling would be less than substantial. Where this is the case paragraph 134 of the Framework requires that this harm be weighed against any public benefits. The benefits of the proposal would mainly be through the supply of housing in a village where the Council has not identified any suitable alternative sites, and by this lessening the pressure for development elsewhere in the open countryside. However, the benefits of a single dwelling in this respect would be minimal and clearly not outweigh the harm that has been found.

Conclusion

20. For the reasons set out above, and having taken into consideration all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR