
Appeal Decision

Site visit made on 17 December 2019

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2020

Appeal Ref: APP/Y2430/W/19/3239598

3 Main Street, Burrough on the Hill, Melton Mowbray LE14 2JQ

- 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 & Mrs Thomas Allen against the decision of Melton Borough Council.
 - The application Ref 18/01471/FUL, dated 6 December 2018, was refused by notice dated 2 August 2019.
 - The development proposed is part demolition and creation of three detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. For the avoidance of doubt, I have used the description of development given on the appeal form and decision notice. This is a clear and accurate description that removes some of the superfluous detail that was in the original application form.

Main Issues

3. The main issue is whether the proposal represents a suitable location for housing having regard to relevant planning policies and access to services and facilities.

Reasons

4. The appeal relates to a large detached dwelling set in relatively generous grounds. It is located within the village of Burrough on the Hill, which is identified as a 'Rural Settlement' in the Melton Borough Local Plan (MBLP)(2018). MBLP Policy SS2 sets out the development strategy. This states that Melton Mowbray itself will accommodate 65% of the borough's housing need, with 35% being within Service Centres and Rural Hubs. It goes on to state that Rural Settlements will accommodate a proportion of the borough's housing need through 'windfall' development subject to Policy SS3.
5. Policy SS3 states that windfall development will be permitted in Rural Settlements where it is in keeping with the scale and character of the host settlement and where six criteria are met. The first of these states that the development must meet a proven local need identified by substantive evidence, for example within a Neighbourhood Plan, appropriate community-led strategy, a housing assessment or other evidence provided by the applicant.

6. The Council contend that no substantive evidence has been provided of a local need. They also argue that, owing to the lack of services and facilities within the village, the development would be in an unsustainable location where there would be a reliance on private motor vehicles for most trips.

Local Need

7. The 2016 Housing Needs Assessment produced by Midlands Rural Housing concluded that there was a need for five open market dwellings and 14 affordable homes in the parish of Somerby. This includes Burrough on the Hill. This 'need' included specific requirements for four two-bedroomed bungalows as open market purchase units. This study did not therefore identify a particularly significant need for housing in the parish at that time. The appellants consider this to be an underestimate based on the number of questionnaire responses that were received. This is however speculation on their part, and I have given this assertion little weight.
8. The Somerby Parish Questionnaire from 2017 asked residents for their views on a wide range of issues. In terms of housing, there was strong support for small scale development in the area and a preference for smaller private units. However, my reading of this document suggests the results were based on questions about what people in the parish would prefer to see in the future, rather than any clear indication of either a specific quantitative or qualitative 'need' for a number or type of dwellings. On this basis, I am not convinced this constitutes clear evidence of local need, either in the parish as a whole or this village in particular.
9. Both of these documents were produced to support the emerging Somerby Neighbourhood Plan (SNP). This document is at a relatively early stage of preparation and thus does not carry significant weight. Nevertheless, I note that other than a 'reserve site' this plan currently makes no additional housing provision over and above what has been set in the MBLP. The residual 'need' for Somerby in the MBLP was 44 dwellings. The Council has indicated that the plan allocates land for some 69 dwellings and that these can meet any parish needs identified. Moreover, the supporting text within the SNP states that extant permissions and/or completions already meet the MBLP requirement. In this context, the 'reserve site' would only be triggered in the event that permissions are not implemented, or additional needs are identified.
10. This does not therefore provide strong evidence of a local need for housing in Burrough on the Hill. The data, and approach of the SNP, is parish-wide and thus housing development within Somerby itself would meet any of the needs identified. This would be consistent with the MBLP's overarching spatial strategy. The evidence also suggests that local housing needs in the area are already being met through existing allocations and/or permissions.
11. Emerging SNP Policy HR4, would allow for windfall development in Burrough on the Hill. Notwithstanding the limited weight given to this policy, any development would still be subject to certain other criteria. This includes that it would help meet the identified housing requirement in the area in terms of housing mix. Emerging Policy HR3 appears to suggest that this would be for homes of 2-3 bedrooms and/or homes suited to the needs of older people. Homes of four or more bedrooms would be supported only where there is an identified need.

12. The appellant suggests that the development would meet this requirement. The appellant has also indicated that only one bungalow has been built in the parish since the publication of the 2016 study. The Council has not disputed this. I do not have any details of what may have been granted permission in the area. However, while there is no mechanism in place to secure this, my understanding is that the intention is for the appellants' parents to move into the proposed bungalow. It is also stated that the appellants intend to move into this unit in the longer term. It would not necessarily be available on the open market and thus would not contribute either to the need identified in the assessments or the preferences outlined in the SNP. There also appears to be no overwhelming support for additional four-bedroom dwellings.
13. The other part of the appellants' case rests on their personal circumstances. This relates primarily to their desire to downsize and for their elderly parents to move into one of the new dwellings. This would provide an opportunity for the appellants to provide care, whilst allowing their parents a degree of independence. The Council has indicated that they would have no objection to the subdivision of the existing dwelling to facilitate this.
14. The appellants have submitted evidence which seeks to demonstrate that this course of action would not be viable and that the third dwelling is necessary to fund the works. I am not convinced that the hypothetical 'subdivision' option provided would be the only way in which such works could be carried out. In addition, there may be alternative ways in which their requirements could be met without the same level of works or the need for a third dwelling. While I am sympathetic to the appellants' wishes, these circumstances are not unique and are experienced by many families. I am not persuaded that this constitutes particular evidence of a local need as required by the policy. Rather, it reflects the personal preferences of the appellants' and their family.
15. The appellant has also indicated that a local couple has already expressed an interest in purchasing the third dwelling. It is argued that this couple, who currently live in the parish, have particular needs that cannot be met by existing housing on the market. There were 10 dwellings for sale in the parish at the time of the appellants' assessment. While this only represents a snapshot, it indicates that there were a range of dwellings available, of different sizes, types and prices at that time. In my view, this evidence does not support the view that there are no available properties for the general market in the area.
16. The couple's requirements are extremely specific, both in terms of the size and nature of the dwelling and its location within the Somerby parish. While I recognise the desire to remain living in the area, there is nothing to suggest that opportunities outside the parish may exist which would provide the same or similar benefits. I have also seen nothing which suggests any particular need to stay within Somerby parish other than personal preference. This does not equate to substantive evidence of a local need for additional housing.
17. Moreover, while I have no reason to doubt the intentions of the appellants, or the named couple, there is no mechanism before me that would ensure the occupation of the dwellings would take place as suggested. The circumstances of the case do not justify a tailored permission to the appellants. Without such a mechanism in place, all three units could be made available on the open market and any justification on the basis of personal circumstances would be

lost. Consequently, I can give little weight to these circumstances as evidence of a 'local need'.

18. In conclusion on this issue, I find that the appellants have not demonstrated that the development would be meeting a local need as defined by MBLP Policy SS3. There would therefore be conflict with this policy and the spatial strategy as set out in Policy SS2.

Access to services and facilities

19. The MBLP does not place a moratorium on development in Rural Settlements on the basis of access to services and facilities. Indeed, the Council have stated that they would not object to the subdivision of the existing property and the creation of an additional dwelling as a result. However, there is an in-built recognition within the existing and emerging policy framework that development in such locations is not a given but must also be meeting some other objective of the respective plan. In the case of Policy SS3, this means meeting a local need. The settlement hierarchy and strategy set out in Policy SS2 recognises that higher order settlements are more likely to provide sustainable locations for growth.
20. There is no dispute that the village itself is not well served by services and facilities. There is some local employment and a pub, but no schools, shops or other services needed on a day-to-day basis. Somerby itself is under 2km from Burrough on the Hill and provides a range of services and facilities. The appellants have also drawn my attention to other employment hubs and service centres in the wider vicinity of the site.
21. There are some bus services running through the village. However, the frequency and timing of these services, and the distance and nature of pedestrian and cycle routes to other locations, means that the car would still be likely to be the main mode of travel for most trips. The village has access to broadband. This might reduce the need to travel for some but does not change the fact that most journeys would be likely to be made by car.
22. The development would therefore be likely to lead to a small increase in car-borne trips. This would be contrary to the National Planning Policy Framework's (the Framework) objectives of managing patterns of growth to support opportunities to promote walking, cycling and public transport. Although not referred to in the decision notice, I also note that MBLP Policy IN2 includes provision for ensuring development is located where travel can be minimised and use of sustainable transport modes maximised. The development is not in a location where this could be achieved.
23. This therefore weighs against the development. However, the weight given to any harm resulting from this will be tempered by the fact that the MBLP would allow development in this location in certain circumstances. Furthermore, the scale of development and the number of trips generated and the proximity of other services, facilities and employment in the area are also important factors to consider in the planning balance. I am also mindful that the Framework makes it clear that opportunities to maximise sustainable transport solutions will differ between rural and urban areas. Having regard to all these factors, I consider that only moderate weight should be given to the harm caused in this respect. This would be in addition to the harm caused through conflict with the MBLP identified above.

Other Matters & Planning Balance

24. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. I have found there would be conflict with the MBLP insofar as the development would not be meeting a defined local need. There would also be moderate harm relating to the settlement's lack of services and facilities and likely reliance on the car.
25. The development would add two additional dwellings to the overall housing land supply. It would also add some variety of housing types in the village and make more efficient use of the land. There is however no evidence to suggest the Council cannot demonstrate a five year supply of deliverable housing land. In my view, there is also no clear evidence that there is insufficient housing choice in the area. As such, two additional dwellings would provide little overall benefit in these terms.
26. Paragraph 78 of the Framework states that development in rural areas should be located where it can enhance or maintain the vitality of rural communities. It also recognises that development in one village may support services in a village nearby. Burrough on the Hill forms part of a cluster of settlements along with Somerby. Development here could therefore help to enhance or maintain the vitality of Somerby and other settlements in the cluster. The likely reliance on the car would reduce any functional relationship, as occupants may decide to travel further afield for some trips. The economic or social benefits to the vitality of any settlement would not therefore be significant. Any economic benefits associated with the construction of the development would also be short lived. The new dwellings could be developed to a higher standard in terms of energy efficiency, but this would be expected of any form of development and adds no particular weight in favour of this proposal.
27. The personal circumstances of the appellants do not constitute a local need in policy terms. Nevertheless, I recognise the development would provide some private benefits for the appellants. The Planning Practice Guidance (PPG) makes it clear that the planning system works in the public's interests. Personal circumstances rarely outweigh matters of public interest, and I do not find that to be the case with the appeal proposal. I am therefore able to place only a moderate amount of weight on the personal considerations put forward in support of the development. This includes social and environmental issues relating to the ability of the appellants to provide on-site care.
28. The site lies within the Burrough on the Hill Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The development would clearly lead to an increase in density on the site. Nevertheless, while the open nature of some of the garden would be lost, the development would not encroach into the open countryside. The self-enclosed nature of the site away from the main road ensures there would be no particular impact on the street scene. The development would be far more prominent from the public right of way which runs through the field to the rear. However, the residential character of the site when viewed from this location would not change. The impact of development in this regard would not be significant.

29. The Council did not refuse the application owing to its impact on character and appearance, the Conservation Area or any other nearby heritage asset. I saw nothing that would lead me to a different conclusion. The Council also raised no concerns relating to impacts on other factors, such as drainage, highways, the living conditions of neighbours or biodiversity. However, a lack of harm in these respects is neutral and weighs neither for nor against the development.
30. Taking all relevant matters into account, I do not consider the benefits of the development would outweigh the clear conflict with the development plan or other harm identified. There are therefore no material considerations that would lead me to a decision other than in accordance with the development plan in this case.
31. I recognise that my decision pulls in a different direction to some of the appeals¹ put to me by the appellants. While I have had regard to these, they were all written prior to the adoption of the MBLP. I note that the policies which have been replaced did not appear to refer to a local need. They were therefore considered in a different policy context. Furthermore, some of the cases are clearly not directly comparable to the development before me. The example given in Burrough on the Hill related to the reuse of an existing building, which inevitably raises different issues. The factors to consider in any planning balance are therefore materially different. In any event, I have considered the appeal on its own merits based on the evidence before me and my own observations. These appeal decisions do not therefore alter my overall conclusion.

Conclusion

32. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR

¹ APP/Y2430/W/15/3129077, APP/Y2430/W/17/3178569, APP/Y2430/W/17/3182368, APP/Y2430/W/16/3143460, APP/Y2430/A/14/2211803