
Appeal Decision

Site visit made on 15 October 2019

by S D Castle BSC(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th April 2020

Appeal Ref: APP/Y2430/W/19/3234082

6 Cross Lane, Burton Lazars, LE14 2UH

- 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 A Croxall against the decision of Melton Borough Council.
 - The application Ref 19/00176/FUL, dated 12 February 2019, was refused by notice dated 30 May 2019.
 - The development proposed is full planning application for the alteration and extension of existing split level property to form 2 no. separate dwellings with independent off street car parking and rear gardens.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the proposal would be in a suitable location for housing with regard to the accessibility of services and proven local need; (ii) the effect on the character and appearance of the area; and (iii) the effect on the living conditions of the occupiers of the neighbouring properties by way of visual impact, outlook and privacy.

Reasons

Location

3. The appeal site relates to an existing detached dwelling located on a corner plot at the junction of Cross Lane and Peppers Lane within the village of Burton Lazars. The proposal would result in an additional dwelling at this location. The site is located approximately 200m west of the junction of Cross Road with Melton Road (A606), the main road that links Burton Lazars with Melton Mowbray to the north-west. Bus stops, the village hall and the Grade II* Listed St James' Church are all located on the Melton Road adjacent to this junction.
4. The Melton Borough Local Plan 2011-2036 (2018) (MBLP) identifies Burton Lazars as a 'Rural Settlement' within the settlement hierarchy¹. MBLP Policy SS2 sets out the development strategy for the borough. It states that Rural Settlements will accommodate a proportion of the housing need

¹ Appendix 3 Melton Borough Local Plan (2018)

through 'windfall' development within or adjoining the settlement, subject to meeting all the criteria set out in MBLP Policy SS3.

5. MBLP Policy SS3 states that new residential development on unallocated sites 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 appellant asserts that the borough-wide need for windfall development within the Rural Settlements, as established through the Melton Borough Council Housing Needs Study (2016), provides evidence of a proven local need. The term 'proven local need' is not defined within the MBLP and is therefore a matter of planning judgement. For this element of the policy to function as intended, however, a more area specific evidence base is clearly required. I am not persuaded, therefore, that the borough-wide need for windfall development in Rural Settlements amounts to substantive evidence indicating a proven local need to reside in Burton Lazars.
7. MBLP Policy SS3 also requires that new residential development would be served by 'sustainable infrastructure' and/or provide new infrastructure or services to the wider benefit of the settlement. Burton Lazars includes a limited range of facilities and services including a village hall, church and bus stops. It is likely, however, that the occupants of the proposed additional dwelling would have to travel to places with a greater range of facilities and employment opportunities, in order to carry out their day to day needs.
8. Melton Mowbray provides a full range of services and the route along Melton Road has a paved footpath. Whilst the distance from the site to the edge of Melton Mowbray is approximately 800m, the distance to the majority of facilities and services is significantly further. The Melton Road is a busy classified 'A' road and the distance between Burton Lazars and Melton Mowbray is predominantly unlit and without specific facilities for cyclists. As such, the route would be neither attractive, nor convenient, for future residents to undertake on foot or by cycle. This would particularly be the case outside of daytime hours and during inclement weather.
9. The bus timetables submitted by the appellant indicate services operate between Burton Lazars and Melton Mowbray during the hours of 0730h to 1815h. However, whilst this service would provide access to local schools, shops and employment sites, the limited hours and regularity of the service, particularly from mid-morning to mid-afternoon and during the late evening, reduces its potential as an alternative mode of transport. Consequently, even though there would be safe and convenient access to public transport, I consider that occupiers would still tend to be highly dependent on travel by private car to access services and facilities.
10. I have had regard to the appellant's assertion that Burton Lazars should be regarded as a 'Rural Hub' within the settlement hierarchy given paragraph 4.2.7 of the MBLP states that, "Settlements within 500 metres of a Service Centre or 2.5 km of Melton Mowbray are also identified as a Rural Hub, due to their proximity to services and facilities within a cluster". Notwithstanding this, the settlement hierarchy clearly identifies which settlements are to be

considered Rural Hubs and which are to be considered Rural Settlements. Even if Burton Lazars was to be considered a Rural Hub, proposed residential development on unallocated sites would still be required to meet the criteria of MBLP Policy SS3 or to represent sustainable development under the overarching MBLP Policy SS1.

11. Overall, therefore, I conclude that the proposal would not be in a suitable location for housing with regard to the accessibility of infrastructure and services. Furthermore, the proposal would not meet a proven local need. Accordingly, in these regards it would conflict with MBLP Policy SS3 and its approach to housing development on unallocated sites in rural settlements which seeks to improve the sustainability of rural areas.

Character and Appearance

12. The existing dwellings on Cross Lane are predominantly set back from the highway behind front gardens and driveways. This set back and the intervening landscaping gives the area a spacious and verdant character. The dwellings in the local area are a mix of single and two storey scale, with a variety of different designs, including hipped and gable ended roofs. The existing dwelling at 6 Cross Lane is an exception to the prevailing pattern of development, being located on a L-shaped plot and with only a limited set back from the highway. The existing dwelling is, however, relatively low profile and does not, therefore, appear dominant in the street scene despite its limited set back from the highway.
13. The proposal involves the subdivision and remodelling of the existing dwelling to create two separate dwellings. The northernmost proposed dwelling includes extending the existing ridgeline to the side and a large two-storey flat roof rear extension. The side extension is of a modest width and is set back from the existing frontage. The rear extension, though large, would not be prominent from public viewpoints. As such, I am satisfied that these elements of the proposal would not appear dominant or incongruous in the street scene.
14. The proposed southernmost dwelling would be a dormer bungalow with a ridge higher than the existing dwelling and located in very close proximity to its plot's front and rear boundaries. This increase in built form without a landscaped set back from the highway would be incongruous with the verdant and spacious character of Cross Lane. Whilst this dormer bungalow is attractively designed, it would, nevertheless, be harmfully dominant in the street scene. The lack of space surrounding this proposed dwelling would not reflect the prevailing pattern of development in the area where dwellings predominantly have both front and rear garden spaces.
15. Overall, I find that the proposal would represent a cramped and incongruous form of development, unacceptably harmful to the character and appearance of the area contrary to MBLP Policy D1 which states that all new developments should be of high quality design and sets out a number of related criteria including, amongst others, that the siting and layout must be sympathetic to the character of the area, and that buildings and development should be designed to reflect the wider context of the local area, amongst other considerations.

Living Conditions

16. The flat roof extension to the existing dwelling would extend closer to the private garden space of 16 Peppers Lane than the existing rear elevation. 3 Juliet balconies would be located at first floor level on the extended rear elevation. Direct views from these balconies would be into the rear garden associated with the dwelling. Whilst I note that oblique views would be possible into the garden of No 16, such oblique views into adjoining gardens are common between dwellings. Given the existing first floor windows and the oblique nature of the views, I do not consider that this aspect of the proposal would result in an unacceptable impact on the privacy of No 16.
17. The rear elevation of the southernmost proposed dwelling would be located close to the boundary with No 16. The facing elevation of No 16 is also located in close proximity to this common boundary and includes windows serving main habitable rooms, including a lounge and bedroom. Although there is an existing closed boarded fence on this boundary, and the finished floor level of the proposed dwelling would be at a lower level than that of No 16, the proposed dwelling would still rise far above the existing boundary fence. This relationship would result in an unacceptably overbearing impact on the occupants of No 16.
18. As such, the proposal would have an unacceptable impact on the living conditions of the occupiers of No16 by virtue of its overbearing impact contrary to with MBLP Policy D1 which requires that the amenity of neighbours and neighbouring properties should not be compromised.

Other Matters

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations, including the National Planning Policy Framework (the Framework), indicate otherwise.
20. I acknowledge that the proposal would result in some economic and social benefits, including through its construction and as a result of a slight increase in spending and patronage of facilities in the local area. Such patronage would make a limited contribution to the vitality of Burton Lazars in accordance with paragraph 78 of the Framework. The proposal would also make a limited contribution to the Government's objective of significantly boosting the supply of homes. I am aware of the importance of windfall housing and that housing targets should not be considered as a cap on the delivery of housing. However, given the proposal would result in the addition of only a single dwelling, the social and economic benefits identified attract limited weight.
21. There would be environmental and social harm arising from the lack of sustainable transport choices available to enable future residents to conveniently access services and facilities. The lack of suitable walking and cycling routes to local facilities would not encourage the healthy lifestyles and community building supported by paragraph 91 of the Framework. The identified harms to living conditions and to the character and appearance of the area would also be contrary to the provisions of paragraph 127 of the Framework which requires developments to be sympathetic to local character and to provide a high standard of amenity.

22. Given the surrounding dwellings, the proposal does not relate to an isolated dwelling in the countryside. As such, I do not find the exceptions listed at paragraph 79 of the Framework apply. Furthermore, whilst I note that significant extensions to the existing dwelling could occur without planning permission, such developments would be materially different to the current proposal for an additional dwelling. As such, limited weight is given to this consideration.
23. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications. Due to the distance between the application site and the Grade II* St James' Church, and given the small scale residential development proposed on an existing residential site, I do not consider that the proposal would have an adverse effect on the setting of St James' Church.

Conclusion

24. Overall, there are no material considerations, either individually or in combination, of sufficient weight to outweigh the identified conflict with the development plan, nor do they indicate that the proposal should be determined other than in accordance with the development plan.
25. For the above reasons, the appeal is dismissed.

S D Castle

INSPECTOR