
Appeal Decision

Site visit made on 7 July 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2020

Appeal Ref: APP/B3030/W/20/3252175

Land immediately adjacent to Beggar Behind and Manor Cottage, off Main Street, Morton, Nottinghamshire NG25 0UT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs C Gordon, Mr P Gordon and ISP Developments Ltd against the decision of Newark & Sherwood District Council.
 - The application Ref 19/01525/OUT, dated 15 August 2019, was refused by notice dated 3 December 2019.
 - The development proposed is residential development with new pedestrian/cycle linkage to the adjoining Arthur Radcliffe Sports Ground, utilising reconfigured existing access arrangements off Main Street.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is for outline permission with all matters reserved save access. Although the evidence before me includes a suggested layout for five dwellings, I have taken this to be indicative only.
3. The evidence before me indicates that since the original application was refused, the Fiskerton-cum-Morton Neighbourhood Plan (the Plan) has been adopted. As such I give it full weight.
4. The appeal site is close to the Morton Conservation Area (MCA). The Planning (Listed Building and Conservation Areas) (England) Act 1990 (the Act) confers on the decision maker a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. As such, I have considered it appropriate to include this as a main issue.

Main Issues

5. The main issues are:
 - Whether the development would accord with relevant local policies with regard to location;
 - Whether the development would comply with local policies and national guidance in respect of flood risk;
 - The effect of the development on highway safety; and,

- Whether the proposals would preserve or enhance the setting of the MCA.

Reasons

Location

6. Morton is a very small village located some 5 kilometres from the small town of Southwell, and is one of a series of small villages scattered across a predominantly rural landscape at intervals of one or two miles.
7. The appeal site is outwith the settlement boundary and consequently, in planning terms, sits within open countryside. The appellant has advanced arguments relating to the settlement boundary. However, given the Plan's recent examination and adoption I see no reason to give those boundaries anything but full weight, irrespective of where they fall on a plot by plot basis. Moreover, plots on the edge of villages frequently have large gardens and it does not seem unreasonable to exclude these from the built up area's envelope. Where the boundary appears to go through buildings, this appears to me to be minor errors in drafting, which are more obvious when the map is viewed at a larger scale.
8. I have noticed that the boundaries for both Morton and Fiskerton are drawn very tightly around the existing building pattern. Although both Policy SP3 of the Core Strategy¹ (CS) and the Plan's Vision anticipate some growth, these boundaries lead me to conclude that it is expected that growth will be met through small scale windfall development, within those boundaries.
9. Consequently, the proposals have to be assessed against criteria set out in Policy DM8 of the Allocations and Development Management DPD (DPD). For residential development this requires dwellings that are of exceptional quality or have innovative design, significantly enhance their immediate setting, and which are sensitive to the defining characteristics of the area.
10. This is an outline application and arguably those criteria could be met at reserved matters stage. However, in my experience this can lead to repeated applications for reserved matters approval which fail to meet the expectations of an outline permission. In any case, the design statement outlines that the design would reflect the surrounding design styles. I did not notice anything particularly innovative in the design of nearby buildings, or anything that suggests that a continuation of those styles would be sensitive to or enhance the area.
11. I acknowledge that the appeal statement notes that the precise quantum of development is undefined, and the design statement refers to a *cluster* or *small number* of dwellings. Nonetheless, the application is for five dwellings. I appreciate that the submitted plans are indicative, but the quantum and spread of development across the site, however arranged, would be highly likely to be incongruous with the underlying building pattern. It would represent a density of development and degree of urbanisation at odds with the building pattern of adjacent plots.

¹ Newark and Sherwood Amended Core Strategy, adopted 2019

12. Although the depth of the development behind Main Street to the north of Clumber Farm is similar to what would be achieved here, it remains that this site is now outside the settlement boundary.
13. I also have concerns that although the site is currently well-screened by mature and tall hedgerows, if those hedgerows were to form garden boundaries, maintenance regimes would be highly likely to change. In my experience there is a far lesser tolerance of natural and unmaintained vegetation where it contributes to debris and shade in proximity to dwellings and amenity space. As such, I conclude that the natural screening enjoyed by the site would not necessarily remain in place if this density of development was allowed. This could result in a highly visible pocket of urbanisation behind the Main Street frontage that would fail to enhance its setting or be sensitive to the defining characteristics of the area. As such, on balance and on the basis of the evidence before me, I conclude that the development would not meet the criteria for dwellings set out in DPD Policy DM8.
14. The bus timetable opposite the Full Moon public house showed that the service to Southwell and other villages is limited to two in each direction per day. There are no shops in Morton and future occupiers would be heavily dependent upon private transport for access to education, most employment opportunities and day to day amenities. However, there is a primary school in Bleasby, which is some two miles away, and other amenities in nearby villages or Southwell. There are also rail links to Nottingham and Newark. In this particular case I conclude that further residential development in Morton could accord with the National Planning Policy Framework (the Framework) which states that planning policies should identify opportunities for villages to grow and thrive, particularly where this will support local services. However, although I have found no harm in relation to accessibility, this carries neutral weight in my reasoning.
15. I conclude that the development would be outwith the settlement boundary and would fail to accord with relevant local policies. It would be contrary to DMD Policy DM8, as noted above and CS Policy SP3 which sets out a development hierarchy.

Flood Risk

16. The site and its access road lie within Flood Zone 2. This is land that has between a 1 in 100 and 1 in 1000 annual probability of flooding. Paragraph 155 of the Framework states that all plans should apply a sequential risk-based approach to the location of development in order to steer new development to areas with the lowest risk of flooding. Development should not be permitted where there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
17. The appellant has undertaken a review of nine potential alternative sites but has limited that search to areas within or immediately adjacent to Morton with a site area up to above 0.4 hectares (ha). However, immediate and local housing need has been measured across the Plan area. There is nothing before me to indicate that housing need² in the district, or the more limited Plan area, has to be met within Morton. The search area seems unnecessarily restricted, particularly given the proximity of Fiskerton, which has similar distances to

² Housing Needs Report

amenities. As I have noted above, small settlements are likely to be dependent on windfall sites for additional housing and this is substantiated by the adopted settlement boundary.

18. Three sites are identified within Flood Zone 1 in Morton. Two are discounted for issues around constraints and availability, and the third is discounted for reasons concerning existing trees and the inadequacy of the host dwelling's garden if three dwellings were built. However, imposing a minimum threshold of three dwellings also seems an artificial constraint. This also reinforces my reasoning that the developer's intent is to build five dwellings.
19. By setting what appear to be artificial parameters, the search area and its outcomes are limited. I conclude that the appellant's sequential test deploys very limited parameters which inevitably reduces the likelihood of finding suitable alternatives and does not necessarily reflect the actual situation regarding potential site availability outside Flood Zone 2. Paragraph 034 of Planning Practice guidance states that the developers should justify the area of search with the local planning authority. The Council's evidence clearly sets out that they consider the area of search has not been justified, and I agree.
20. Furthermore, the Flood Risk Assessment (FRA) states that the site has low risk of pluvial flooding with a flood water depth of between 150mm and 300mm. However, the plans show that a portion of the site would have a medium flood risk with likely flood depths of between 300mm and 600mm. The sequential test also confirms that the site has a medium probability of flood risk.
21. As site levels range between 14.7m AOD and 15m AOD, with levels at 15m at the boundaries only, the proposed mitigation of raising floor levels to 15m AOD would be unlikely to provide sufficient protection from flooding across the site.
22. I appreciate that a letter of support states that the site was not flooded in the 2013 Southwell flood event, but this does not necessarily indicate that the site will not flood in future flooding events.
23. CS Policy 9 requires development to demonstrate pro-active surface water management, and CP Policy 10 requires new development to be steered away from area of the highest risk of flooding. DPD Policy DM5 states that development within Flood Zone 2 will only be considered where it constitutes appropriate development and it can demonstrated, by application of the sequential test, that there are no reasonably available sites in lower risk Flood Zones.
24. There are areas within Morton, and to a lesser extent Fiskerton, that are within Flood Zone 1 and the submitted sequential test appears to rely on artificial constraints. I conclude that the evidence before me does not lead me to conclude that this is the only site within the Plan area that could accommodate part of the identified housing need. Moreover, there is nothing before me to indicate how the flood risk would be adequately mitigated.
25. I conclude that the development would fail to comply with local policies and national guidance in respect of flood risk and would therefore be contrary to DMD Policy DM5, and CP Policies 9 and 10 as set out above. It would also fail to conform to Paragraph 155 of the Framework.

Highway safety

26. Access to more than two dwellings requires an access road width of at least 5.8 metres where the access meets the highway. The drawings indicate that this width could be achieved by encroaching into land belonging to Beggar's Roost. As this is in the appellant's ownership, I conclude that this would be achievable and reasonable.
27. A consultant's report³ has concluded that the yew hedge to the south of the entrance, at The Retreat, is located beyond the plot boundary and therefore presumably on highway authority land. I see no reason to disagree with this report in this regard. On the balance of probabilities I conclude that the highway boundary is where the appellant has posted his 'private' sign.
28. Nonetheless, the photograph in the report illustrating visibility is taken forward of the boundary fence at The Retreat and not, as far as I could see, from a point 2.4 metres from the carriageway. Even if the hedge was removed I concluded that the full distance of the visibility splay would only be visible from a point closer to the carriageway than 2.4 metres.
29. The highway authority has removed its objection to the development on the basis that a condition could be imposed to ensure an adequate visibility splay. However, on the basis of what is before me I am unable to conclude that such a condition would be reasonable or enforceable as it would seem to me to require encroachment into private land.
30. Although the access road could provide off-road access for users of the playing field from Main Road, the village is very small and it is unclear how much use such a route would get. In addition, Morton is not on a through route and traffic volume appears to be limited. There is nothing before me to suggest that cyclists and pedestrians accessing the playing field from within the village are at particular risk on the highway. I conclude that the small benefit to highway safety arising from having a section of off-road access from the village centre to the playing field would not outweigh the harm I have identified in relation to the harm associated with highway safety and the significantly increased vehicular use of the access road.
31. As such, I conclude that the development would be detrimental to highway safety. This would be contrary to CS Policy SP7 insofar as this is concerned with highway safety and DMD Policy DM5 which requires safe and inclusive access to new development.

Conservation Area

32. The site lies close to the boundary of the Morton Conservation Area (MCA). There is limited information before me regarding the key characteristics of the MCA. However, I noticed that the site is well screened by mature hedges and occasional trees. In long views from Cooks Lane across the playing field the village and the MCA are seen as glimpsed views of clusters of brick buildings and tiled roofs.
33. I conclude that the significance of the MCA is derived from the underlying historic layout of the Main Street building line and associated period buildings. This is consistent with the Landscape Character Assessment which locates the

³ White Young and Green, Highway Supporting Statement, October 2019

site within the Trent Washlands policy unit and recommends that the historic character and setting of village settlements is conserved. As I have noted above, it seems likely that development on the appeal site could lead to increased visibility across the playing field and from Cooks Lane and the imposition of a far denser development in front of the views to the buildings making up the MCA. This would fail to preserve or enhance the setting of the MCA and would therefore fail to accord with the provisions of the Act.

34. These views form a small sector of the views from Cooks Lane and would amount to less than substantial harm to the setting of the MCA. I acknowledge that if the site was developed, appropriate design and mitigation could reduce the harm identified and additional housing meeting local need could provide public benefits, as required by Paragraph 196 of the Framework. Nonetheless, this observation reinforces my reasoning with regard to the site's location beyond the settlement boundary.

Other matters

35. The nearby Clumber House is a Grade II listed building. However, nothing has been brought to my attention to suggest that the setting of Clumber House would be adversely affected by the development, and I conclude that the building's setting would be preserved.
36. Interested parties have raised other concerns but as I have found harm in relation to the main issues it is not necessary for me to consider these further.

Conclusion

37. Although the development would contribute to the locally identified housing need, this benefit would not outweigh the harm I have identified above. I conclude that the development would fail to accord with relevant policies of the development plan, the Act and national guidance and that the conflict with the development plan taken as a whole would not be outweighed by other material considerations. Therefore, the appeal should be dismissed.

A Blacq

INSPECTOR