
Appeal Decision

Site visit made on 8 July 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/P3040/W/20/3248066

Land Next to Orchard House, Old Melton Road, Normanton on the Wolds, Nottingham NG12 5NN

- 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 Sinder Singh against the decision of Rushcliffe Borough Council.
 - The application Ref 19/02195/FUL, dated 17 September 2019, was refused by notice dated 13 November 2019.
 - The development proposed was originally described as 'construction of two detached, two-storey dwellings with associated access and parking arrangements on open land which has been used as an extension to a residential garden for over 10 years.'
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Decision

1. The appeal is allowed and planning permission is granted for construction of two detached, two-storey dwellings with associated access and parking arrangements, at land next to Orchard House, Old Melton Road, Normanton on the Wolds, Nottingham NG12 5NN, in accordance with the terms of the application Ref 19/02195/FUL, dated 17 September 2019, and subject to the conditions set out in the attached schedule.

Procedural Matter

2. In the formal decision above, I have omitted reference to the use of the land as residential garden for more than 10 years as I do not have evidence to verify this, and in any event it is superfluous.

Main Issues

3. The land falls within an area of Green Belt and within the Normanton on the Wolds Conservation Area (the CA). Therefore, the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies, including the effect on the openness of the Green Belt and the purposes of including land within it;
 - The effect of the proposal on the character and appearance of the CA;
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

4. The Government attaches great importance to Green Belts. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It adds that the construction of new buildings within the Green Belt is inappropriate development, but Paragraph 145 lists certain forms of development which are not regarded as inappropriate. One such exception is criterion e) limited infilling in villages.
5. The Council refused the application on the basis that the proposal did not constitute limited infilling in a village as it was considered that the site represented a substantial gap along Old Melton Road and was detached from the village of Normanton on the Wolds (hereafter Normanton). Therefore, the determinative questions to be considered are whether the proposal would constitute infilling and whether it would be *limited* infilling, and whether it would be within a village.
6. The Council regards the existing dwelling, The Orchard, as an isolated dwelling detached from the main built-up area of Normanton. In doing so, it refers to a dismissed appeal decision from 1987¹ and its own later refusals of planning permission in 1996² and 2003³. The appeal site is located immediately to the south of the dwelling known as the White House, which stands at the junction of Old Melton Road and Platt Lane opposite The Plough public house, and immediately to the north of The Orchard, which appeared to be in the process of being rebuilt at my site visit.
7. I have had regard to the aforementioned decisions and the considerations made therein, so far as the evidence before me allows. In the appeal decision, the relevant policy at the time, P5 of the Nottinghamshire Green Belt Local Plan, resisted development unless within the built up area of the village and where it represented acceptable infilling of a small gap within a substantially built up frontage. The Inspector noted that the Council at that time had defined a built-up boundary for the village which the site was beyond, and that the prevailing guidance of the time⁴ defined infilling as 'filling a gap in an otherwise built-up frontage.'
8. In terms of the current policy context, the Framework does not define 'limited infilling'. However, paragraph 3.10 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (October 2019) (the LP2) defines 'small scale infilling' as 'the development of small gaps within the existing built fabric of the village or previously developed sites, whose development would not have a harmful impact on the pattern or character of the area.' Importantly, the definition no longer refers to 'frontage', but to the 'existing built fabric' of the village. Therefore, whilst I agree that the section of Old Melton Road beyond the junction with Platt Lane does not have a recognisable frontage, given the White House does not face Old Melton Road, I consider that it does have built fabric. Moreover, though not a determinative factor in itself, the evidence before me indicates that Normanton no longer has a defined settlement boundary under

¹ Appeal Ref T/APP/P3040/A/87/77727/P4

² Council Ref 96/00820/OUT

³ Council Ref 03/00691//FUL

⁴ Development Control Policy Note 4

the current development plan, and whether the site falls within a village is a matter of judgement based on the facts on the ground.

9. I saw that the appeal site has a wide hedgerow frontage; however, I saw other dwellings in the village to also have extensive frontages, some with substantial hedgerows screening the dwellings themselves. Within such a rural context, I do not regard the distance between The Orchard and the White House as excessive. Stood at the entrance to The Orchard, the junction of Old Melton Road and Platt Lane is only a short distance away, and within the site itself, the White House and The Orchard are visible immediately next to the side boundaries. I note that the Council refers in its previous decisions to the appeal site being 'naturally planted'; however, the site was largely cleared of vegetation at my visit. Even so, the interior of the site is largely screened by the hedgerow such that it does not appear as an open area of land consistent with the expansive fields beyond the village, but as a screened site reflective of many properties elsewhere in the village.
10. I also note that the appeal site and The Orchard are categorised as part of the Village Centre within the Normanton Conservation Area Appraisal and Management Plan (September 2009) (the CAA). I accept the Council's point that this does not imply the site is spatially within the centre of the village – it is clearly at the edge – but it describes the area of the 'village centre' as sharing common characteristics running along Old Melton Road such as the front boundary treatments of brick walls, hedges and overhanging trees, and in doing so it conveys that The Orchard and the appeal site are seen as part of the village rather than outside of it. My observations on site reinforce this. The appeal site represents a modest gap between the White House and the Orchard, which has a clearly domestic curtilage that extends to outbuildings adjacent to Platt Lane visible on entry to the village. Beyond the garden of The Orchard, the land very clearly changes to open countryside, and walking along Old Melton Road, The Orchard and the appeal site appeared to me part of the fabric of the village. Therefore, I find that the extent of the village on the ground includes the appeal site and The Orchard.
11. The development of two dwellings would be limited in numerical terms, and based on the plans before me, they would not be excessive in scale and would substantially fill the space in the built form between The White House and The Orchard, and so would fall within the scope of 'limited infilling'.
12. Taking these considerations together, I find that the proposal would amount to limited infilling within a village within the meaning of criterion e) of Paragraph 145 of the Framework. Consequently, the proposal would not constitute inappropriate development within the Green Belt and would not conflict with Policy 21 of the LP2 which requires applications for development in the Green Belt to be determined in accordance with the Framework.
13. With respect to openness and the purposes of the Green Belt, given my findings that the proposal is not inappropriate development, by definition it would not have an adverse impact on the openness of the Green Belt or the purposes of including land within it.
14. Moreover, given that the proposal would not amount to inappropriate development, there is no need for me to go on to consider whether very special circumstances exist in order to justify the development. Therefore, the third main issue listed above does not need to be addressed further.

Effect on character and appearance of the CA

15. The Townscape Appraisal within the CAA identifies the boundary hedgerow to the appeal site, and the one opposite, as 'significant hedges' within the CA. They are not specifically referred to elsewhere in the CAA, but the document refers generally to the positive contribution made by hedgerows and brick wall boundaries to the 'enclosed rural feel' along the main roads through the village. The CAA states that boundaries, such as walls, fences or hedges, separate private spaces from the public realm of roads and pavements, physically and visually, and that they are as important in determining the character of a CA as the buildings behind them. It adds that development will normally be resisted if it destroys important features identified in the individual appraisals such as boundary walls, fences, hedgerows or trees.
16. The hedgerows to the site boundary and opposite are natural in appearance, and their length and generally consistent form add positively to the rural character of the CA. There are existing openings within the hedgerow on the adjacent side to the site, two next to each other at the entrance to The Orchard and the appeal site and other intermittent opening to fields along the road. I also saw that the hedgerow was intermittent in places along the site frontage and had been enclosed by green plastic sheeting, roughly where the proposed access would be located, which would create a run of three within a short distance.
17. The hedgerow's significance derives in large part from its consistency and enclosing effect on the rural lane; however, it is not a wholly uninterrupted hedgerow at present, and openings within hedgerows are a common feature of rural lanes where field and dwelling accesses are created. The recessed position of the proposed accesses behind the wide grass verge would help to diminish their presence in long views along Old Melton Road, where a largely consistent hedgerow would still be seen, and which with growth over time would further screen the accesses. Inevitably, the openings would enable views of the dwellings from directly in front; however, this is already the case for The Orchard and other dwellings in the village, and in my view, the proposed entrances to the dwellings, which are shown to be no wider than necessary to achieve access, would form common and characteristic features of a rural village. Moreover, the majority of the hedgerow along the site frontage would remain in place and its contribution to the enclosed rural feel of the land would not be significantly weakened. Therefore, I find that the resulting accesses to the dwellings would not appear cumulatively excessive in number or scale, and they would not erode the hedgerow to such an extent as to materially harm its contribution to the character and appearance of the CA.
18. Furthermore, retention of the majority of the hedgerow would ensure that the dwellings do not appear especially prominent in the street scene, but their position between existing built form means they would form part of an continuous line of development, and the traditional design and materials would not appear discordant or uncharacteristic of the rural character of the village. Given the lack of clear views and public access into the existing site, I am not persuaded that its development for housing, particularly in light of the expansive countryside immediately opposite the site and further along Old Melton Road, would be harmful to the overall rural character of the village.

19. For these reasons, I find that the proposal would preserve the character and appearance of the CA, and so would not conflict with Policy 11 of the LP2 which supports development on non-allocated sites within settlements which, amongst other things, has a high standard of design and does not adversely affect the character or pattern of the area; where the existing site does not make a significant contribution to the amenity of the surrounding area by virtue of its character or open nature, and provided that the proposal would not have an adverse visual impact or be unduly prominent from locations outside the settlement.
20. The proposal would also accord with Policy 11 of the Local Plan Part 1: Rushcliffe Core Strategy (December 2014) (the CS) and Policy 28 of the LP2 which together support development where the historic environment and heritage assets and their settings are conserved and/or enhanced in line with their interest and significance. Given my findings, there would be no conflict arising with the Framework and no need to consider any public benefits of the scheme.

Other Material Considerations

21. Nottinghamshire County Council as the Local Highway Authority raises concern with the provision of adequate sightlines from the proposed access, due to them crossing the grass verge which is not under control of the appellant. However, I saw Old Melton Road to be a very lightly trafficked road, to the extent I saw several people walking with dogs in the middle of the road. Moreover, from what I saw, the width of the grass verge would allow drivers to pull out beyond the hedgerow to achieve sufficient visibility in both directions along what is a level, straight section of road. Given these factors, the risk of conflict between vehicles or pedestrians using Old Melton Road and vehicles exiting the proposed dwellings would be very limited, and I find that the proposal would not have an adverse effect on highway safety.
22. The Council did not raise concern in respect of the effect of the proposal on the living conditions of neighbouring occupants, and based on the plans and my observations on site, there would be sufficient space to accommodate the dwellings without affecting light or outlook for neighbouring occupants, nor would the orientation of windows lead to overlooking or a loss of privacy.
23. Although not forming a reason for refusal, the Council refers to conflict with the spatial strategy of Policy 3 of the CS, and I sought further comment from the parties on this issue. Policy 3 states that in other settlements beyond the main built-up area of Nottingham and the Key Settlements, development will be for local needs only. The explanatory text at Paragraph 3.3.17 states that local needs will be delivered through small scale infill development or on exception sites. The Council argues that Normanton is not identified under Paragraph 3.9 of LP2 as one of the other settlements capable of accommodating new housing to meet short term needs, but this paragraph refers specifically to land being allocated in these villages under the Local Plan. As such, it is my view that this does not preclude the possibility of infill development in Normanton being supported under Policy 3. As I have found the proposal would constitute an infill development, the proposal accord with the approach of Policy 3.
24. I recognise that beyond the public house, Normanton lacks services to meet daily needs, and would require travel by private car; however, I saw that a number of services, including shops and schools, are located within one mile or

so in Keyworth, and other facilities, including sports clubs, are dotted around the immediate rural area. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Whilst the proposal would generate additional journeys by private car, many would be short in length and they would be limited in number given the small scale of the proposal. Moreover, new residents would make limited but positive social and economic contributions to local services and facilities which would help maintain the vitality of rural communities, as advocated by the Framework. Overall, therefore, I find no material conflict Policies 3 and 14 of the CS in terms of their approach to accessibility of developments.

25. The Council has also clarified that it can demonstrate a five year supply of deliverable housing sites, a claim not challenged by the appellant. However, in light of my findings, this is not a determinative matter in this case.

Conditions

26. I have had regard to the conditions suggested by the Council. The appellant has raised no objection to the proposed conditions, including where they are pre-commencement. In addition to the standard time limit, a condition setting out the approved plans is necessary to provide certainty.
27. A condition is required in respect of external facing materials to ensure a satisfactory appearance. A pre-commencement condition is necessary to require details of protection for existing trees and hedges to be agreed with the local planning authority in advance of works commencing, to avoid unanticipated loss during construction which would have an effect on the character and appearance of the CA. A condition is also required to prevent removal of trees or hedgerows without prior agreement with the Council. Details of the future landscaping of the site are necessary to ensure a satisfactory appearance and effect on the CA.
28. Further conditions are necessary to ensure visibility splays, parking and turning areas have been laid out in accordance with details to be agreed with the Local Planning Authority, in the interest of highway safety. A condition requiring works to cease should any protected species be found, and mitigation measures agreed and implemented, is necessary to protect biodiversity. Finally, a condition requiring the dwellings to meet the Optional Technical Housing Standard for water consumption is necessary in the interests of the environment and to meet the requirements of Policy 12 of LP2.

Conclusion

29. For the reasons given, and taking all relevant matters into account, the appeal is allowed.

K Savage

INSPECTOR

SCHEDULE - CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan, GA331/01A, GA331/03A, GA331/04C, GA331/05A and GA331/06B.
- 3) No construction of the dwellings shall take place above foundation level until details of the facing and roofing materials to be used on all external elevations have been submitted to and approved in writing by the Borough Council and the development shall only be undertaken in accordance with the materials so approved.
- 4) No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4 x 43m are provided at each access in accordance with details to be first submitted and approved in writing by the Borough Council. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m metres in height.
- 5) No part of the development hereby permitted shall be brought into use until all drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for a minimum of 5.5 metres behind the Highway boundary, with provision to prevent the discharge of unregulated discharge of surface water onto the public highway. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material with provision to prevent surface water runoff for the life of the development.
- 6) No trees or hedgerows shall be removed during the development until details of any trees/hedgerow to be removed have been submitted to and approved in writing by the Borough Council and the works shall be carried out in accordance with the details as approved.
- 7) Prior to the commencement of development or other operations being undertaken on site a scheme for the protection of the retained trees produced in accordance with BS5837 (Trees in Relation to Construction 2012: Recommendations), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.
- 8) The development shall not be brought into use until a detailed landscaping scheme for the site has been submitted to and approved in writing by the Borough Council. The approved scheme shall be carried out in the first tree planting season following the substantial completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Borough Council gives written consent to any variation.

- 9) Should any protected or priority species be found to be present on site then all work shall cease and mitigation measures shall be submitted to an appropriately qualified ecologist. No further work shall be undertaken until these mitigation measures have been approved in writing by the Borough Council and works shall proceed only in accordance with the agreed mitigation measures.
- 10) The dwellings hereby approved shall be designed and constructed to meet the higher Optional Technical Housing Standard for water consumption of no more than 110 litres per person per day.