
Appeal Decision

Site visit made on 19 October 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th November 2020

Appeal Ref: APP/X2410/W/20/3255557

Gracelands, 380 Bradgate Road, Anstey LE6 0HA

- 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 Singh against the decision of Charnwood Borough Council.
 - The application Ref P/19/2590/2, dated 12 December 2019, was refused by notice dated 3 March 2020.
 - The development proposed is two dwellings (one replacement dwelling and one new dwelling)
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:
 - Whether or not the site represents a suitable site for housing having regard to its location outside the settlement boundary; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Whether or not the site represents a suitable site for housing

3. Policy CS1 of the *Charnwood Local Plan 2011-2028 Core Strategy (adopted November 2015)* (CS) sets out the development strategy for the area. It seeks to direct the majority of development to the Leicester Principal Urban Area and the towns of Loughborough and Shepshed. Newton Linford is one of 12 settlements designated as "Other Settlements". The supporting text indicates that whilst these settlements do not have access to a good range of services or facilities, some development is proposed to protect and possibly increase services and facilities in them. Thus, the policy anticipates that within this category at least 500 new homes will be provided within the boundaries of these settlements. The supporting text suggests that this is likely to be in the form of small scale infill development to meet local need. Nevertheless, the text also indicates that by the time the plan was adopted the completions and commitments in the "Other Settlements" already amounted to 887 which is clearly considerably greater than the amount of development envisaged in such settlements.
4. The proposal would replace the existing dwelling on the site and result in one additional house. However, the site lies outside the settlement boundary of

Newton Linford as defined by policy ST/2 of the *Borough of Charnwood Local Plan 1991 – 2006 (adopted January 2004)* (LP). Consequently, the appeal scheme would conflict with the development strategy set out in CS1. It would also be contrary to Policy ST/2 which seeks to confine development to allocated sites and other land within the limits to development.

5. In addition, as the site has open fields to one side, it does not constitute an infill plot and I have no evidence to show that a substantial open market dwelling would meet local need. So even if it were considered to be part of the settlement it would not be the form of development Policy CS1 indicates would be appropriate. Whilst it is suggested that the scheme would meet the needs of the appellant and his wider family there is no mechanism before me to secure the use of either dwelling in any way other than as open market dwellings.
6. As the site is located outside of the settlement boundary it is within the countryside for planning policy purposes. Policy CT/1 of the LP seeks to limit development within the countryside unless it is for one of a small number of criteria. The proposal does not fall within any of these criteria and so would be contrary to this policy. However, as this policy is more restrictive with respect to development in rural areas than the *National Planning Policy Framework* (the Framework) and is largely superseded by Policy CS1, I only give modest weight to the conflict with this policy.
7. The appellant has argued that the limits to development in Policy ST/2 are out of date as is Policy CT/1 as it is more restrictive than the Framework. As such, it is argued that the 'tilted balance' of paragraph 11 d of the Framework is engaged.
8. Paragraph 11 d sets out how applications should be determined when either there are no relevant development plan policies or when the policies that are most important for determining the application are out-of-date. I consider that the policies that are most important for determining this appeal are CS1, ST/2 and CT/1 outlined above, together with Policy CS25 of the CS which reflects the Frameworks' presumption in favour of sustainable development.
9. I have been referred by both parties to a number of recent appeals for residential developments outside the development limits of various settlements in the borough. These appeals have therefore also considered these policies and I agree with the conclusion of the inspectors in the East Goscote¹, Anstey² and Sileby³ appeals that as Policy CS1 is the most recently adopted and sets the development strategy for the borough it is the most important of these policies.
10. Although Policy CS1 relies partially on settlement boundaries in the LP which only sought to plan for housing needs up to 2006, it was considered sound by the Inspector examining the CS. Moreover, from the figures provided in the CS it is clear that the boundaries are not preventing the housing growth envisaged within the "Other Settlement" tier of the development strategy. As such, even though Policies CT/1 and ST/2 may not attract full weight, they are still of relevance in supporting policy CS1 and they are not restricting development in

¹ Appeal Reference APP/X2410/W/18/3214382

² Appeal Reference APP/X2410/W/20/3252732

³ Appeal Reference APP/X2410/W/19/3220699

these settlements and the contribution they should make to housing supply in the area.

11. Thus, I consider Policy CS1 can be given full weight and is not out of date. As this carries the greatest weight in determining this appeal, I consider that overall, the basket of policies is not out of date. This concurs with the findings of the Inspectors in the appeals mentioned above, that all take into account the 'Wavendon' judgement⁴ and to which I give more weight than others I have been referred to, that predate this judgement. Therefore, neither Policy CS25 of the CS nor paragraph 11 d of the Framework are engaged.
12. Given the two proposed dwellings would be close to the other dwellings along this side of Bradgate Road, in the context of paragraph 79 of the Framework, the appeal scheme would not represent isolated new homes in the countryside. Nevertheless, notwithstanding the fact that the development would take place within the domestic curtilage of the existing development, as this domestic curtilage, in policy terms, is open countryside, the appeal scheme would result in development in the countryside that is contrary to the policies for development in this area.
13. The appellant has argued that the site is previously developed land and so its re-use would be more appropriate and more efficient than the development of greenfield sites. However, none of the policies outlined above indicate that the re-use of previously developed land for residential development is one of the forms of development acceptable in areas classified as open countryside.
14. Overall, I consider that the appeal site would not represent a suitable site for housing having regard to its location outside the settlement boundary. It therefore conflicts with Policy CS1 of the CS and Policies CT/1 and ST/2 of LP outlined above.

Character and appearance

15. The current dwelling on the appeal site is a substantial bungalow with an extensive garden, which includes a hard surfaced tennis court. The boundary hedges around the site mean there is little visibility of the property from either Bradgate Road or nearby footpaths. Open land surrounds the site on three sides with linear residential development along Bradgate Road to the fourth. These mainly take the form of detached bungalows and dormer bungalows.
16. The distance between Newton Linford and the neighbouring settlement of Anstey is not extensive and much of this is, I understand, designated as an "Area of Local Separation". However, the appeal site does not form part of this designation and as the proposal would be contained within this existing curtilage it would not erode the formally designated "Area of Local Separation".
17. Nonetheless, the lack of visibility of the dwelling means that to the casual passer-by the site adds to the perception of openness between the two settlements even though the largely coniferous boundary treatment is not typical of the native hedgerows found in the surrounding fields.
18. The volume and mass of the two dwellings proposed would be significantly greater than the current dwelling on the site. Whereas the current bungalow is not noticeable from the road, the height of the proposed dwellings would mean

⁴ Wavendon Properties Limited v SSHCLG and Milton Keynes Council [2019] EWHC 1524 (Admin)

they would be clearly visible. The appellant has stated that the built form of the two houses would not extend beyond the current built form on the site, would see no net change to the building footprint on the site and a 20% reduction to the development footprint. However, these calculations include areas of hardstanding, including the tennis court, which is relatively open in nature, and not just the existing buildings. As a result of the appeal scheme the building envelope would in fact extend across a greater width of the site as well as creating houses with a much greater height. As such, the development would result in the perception of space created by the site at present being lost and so it would erode and harm the sense of openness of the countryside between these two settlements.

19. Furthermore, the scale and mass of the proposed dwellings would be significantly greater than the more modest dwellings on Bradgate Road to the west of the site. As a result, they would not sit comfortably in the street scene. Whilst I accept that the existing bungalow is also much larger than the other dwellings, there is no visibility of it, and so it does not cause the same visual harm in this respect that would be caused by the appeal scheme.
20. The appellant has stated that the development has been designed to be a principal dwelling that is 2 storeys in height and a subsidiary dwelling that is 1.5 storeys. The former is designed to reflect a typical stone farmhouse and the other as a long barn. Therefore, it is suggested that the scheme would be typical of local farmsteads.
21. However, whilst the use of local materials would be appropriate, the scale and mass of the principal dwelling would be far larger than the farmhouses I observed in the local area. Moreover, the triple garage, large areas of glazing, low solid to void ratios and domestic chimney would mean that the subsidiary dwelling would not have an agrarian character that would be typical of a barn. As such, I consider the scheme would be perceived as two large dwellings rather than a farmstead that it is suggested is typical on the edge of settlements.
22. Consequently, I consider that the proposal would unacceptably harm the character and appearance of the area. Therefore, it would be contrary to Policies CS2 and CS11 of the CS which seek to ensure developments respect and enhance the character of an area, protect the character of the landscape and countryside and maintain the separate identities of towns and villages.

Other Matters

23. The site is located adjacent to the boundary of Bradgate Park, a Grade II Listed Registered Park and Garden. As this boundary of the park is bounded by the road which has linear residential development along its southern side, and the fact that the site is already in residential use, it is agreed by both parties that the proposal would not affect the setting of this heritage asset. This is a conclusion with which I agree.
24. The appellant has stated that due to the size of the site permitted development rights would enable multiple outbuildings to be constructed which in their view would have a greater impact than the proposal. Nevertheless, I have been provided with no evidence showing the potential size or location of these suggested outbuildings and so cannot assess their potential impact in comparison to the appeal scheme. Moreover, I have no substantive evidence

that there is a significant probability that the suggested outbuildings would be constructed, should this appeal be dismissed, especially as the additional accommodation they would create would be completely different to that created by the appeal scheme.

25. It has also been highlighted that under the recent changes made to the General Permitted Development Order it would be possible to extend the existing bungalow by up to 3.5m above the highest part of the existing roof. It is stated that this would produce a higher and bulkier property than proposed in the appeal scheme. However, these changes are subject to a prior approval process in which the design and external appearance of the resulting dwelling are assessed. As such, there is no certainty that approval would be granted. In addition, the appeal scheme proposes two dwellings on the site not one larger one, so is a significantly different proposal to the suggested fallback.
26. Consequently, I only give limited weight to both these suggested fallback positions and consider that they do not provide compelling grounds to allow the appeal.
27. It has been highlighted that in 2016 the "Areas of Local Separation" were reviewed and it was confirmed that the appeal site, as a developed plot of land, should not be included within it. The appellant suggests that the inference of this is that the appeal site is actually part of the village not the open countryside and so should be within the settlement boundaries. As the emerging Local Plan has reviewed the settlement boundaries and recommended no change in this part of Newton Linford, the appellant has stated he has made representations regarding the boundaries. Be that as it may, the emerging Local Plan is still at an early stage of production and could be subject to change and so I give little weight to it and whether or not the boundaries should be changed is not a matter before me at this appeal.

Planning Balance and Conclusion

28. My attention has been drawn to a recently produced note from the Council that indicates that from the 9 November 2020 when the CS is 5 years old, the methodology for calculating the 5 year housing land supply changes, and they will no longer be able to demonstrate a 5 year supply of housing land. Be that as it may, at the present time the Council is able to demonstrate this, and I consider the appeal should be determined on the basis of the current rather than a future situation.
29. Nevertheless, I shall consider the position if the tilted balance did apply. I have concluded that the proposal would unacceptably harm the character and appearance of the area which carries significant weight. It would also be contrary to development strategy for the area to which I give modest weight. In terms of the proposal's benefits it would result in one additional dwelling on previously developed land, would provide some temporary work for local contractors and future spend by occupiers would benefit the local economy. However, given the proposal is only for a single dwelling, these benefits would be limited. Overall, I consider that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
30. Consequently, whether or not there is a 5 year housing land supply and whether or not the tilted balance applies is not determinative in my decision.

31. For the reasons set out above I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR