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## Appeal Decision

Site visit made on 21 July 2020

**by Bhupinder Thandi BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> November 2020.**

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**Appeal Ref: APP/Y2430/W/20/3248878**

**Land north of Tofts Hill and east of The Green, Stathern, Melton Mowbray, Leicestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Chris Newington of Redmile Toftshill Ltd against Melton Borough Council.
  - The application Ref 19/00741/FUL, is dated 26 June 2019.
  - The development proposed is demolition of 2 existing dwellings, and a barn and their replacement with 9 new dwellings and associated private access driveways.
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### Decision

1. The appeal is dismissed and planning permission is refused.

### Procedural Matter

2. The Council failed to determine the application within the prescribed period. However, following submission of the appeal, the Council have prepared an appeal statement. This advises that had the Council determined the application, planning permission would have been refused. Putative reasons for refusal are given and identifies that the principal concerns relate to the main issues set out below.
3. The description of development in the heading above has been taken from the appeal form. It is clear from the plans and accompanying details that the development was amended during the planning application. Written confirmation of agreement for a revised description of development has been provided. The Council dealt with the proposal on this basis and so shall I.

### Main Issues

4. The main issues are:
  - The effect of the proposed development upon the character and appearance of the area:
  - Whether the proposal would preserve or enhance the character or appearance of the Stathern Conservation Area (CA); and
  - Whether sufficient information has been submitted in respect of land stability.

## Reasons

### *Character and appearance*

5. The appeal site sits on the edge of the village and contains two dwellings and a number of dilapidated farm buildings but is largely undeveloped. Tofts Hill is a narrow country lane that climbs out of the village with loose knit residential development extending for a short distance before opening out to open countryside. Green Lane is a narrow road with a more compact form of housing. The character of the site contributes to the verdant and rural character of the area.
6. The proposed development would be sited on the lower part of the slope, contained by existing hedgerows and would include a green buffer. However, the proposed dwellings, their arrangement and associated infrastructure and paraphernalia would be dispersed across most of the site and would significantly erode its essentially undeveloped nature and rural character.
7. Whilst the proposed development would neighbour existing dwellings it would be at odds with the pattern of development in the area resulting in a greater depth of built form. The proposed retaining wall at the edge of the development would create a firm edge, drawing the eye and highlighting the substantial built form on site. The proposed development would appear as a dense urban development and would fail to successfully integrate into the edge of the village and would not be an appropriate gateway in and out of the village.
8. I have considered the submitted Landscape and Visual Appraisal and find that the proposed development would be very apparent from within the surrounding area. Whilst the Council's Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study indicates that some development in the area is possible, in my view, the proposed development would not be of an appropriate scale or well-integrated into the area appearing as an intensively developed and urban development, affecting the setting of the village and resulting in landscape and visual harm, notwithstanding the additional planting proposed.
9. I conclude that the proposed development would adversely affect the character and appearance of the area. It would be contrary to Policies SS1, SS2, EN1 and EN6 of the Melton Local Plan (2018) (LP) which, amongst other things, requires new development to be sensitive to its landscape setting; to respect existing landscape character and features and contribute positively to the individual character of a settlement including the setting of the historic built form and features.

### *Effect on the conservation area*

10. A small section of the site falls within the CA. The Stathern Conservation Area Character Appraisal states that the CA largely derives its significance from loose knit development interspersed with green open spaces. Tofts Hill has scatterings of buildings before opening up to countryside whilst Green Lane is defined by terraced properties and a recently completed housing development.
11. Whilst the appearance of the dwellings would be sympathetic to properties in the area, I have found that the development would result in an intensely developed and urban development that would not successfully integrate into

the edge of the village. This would not preserve the character or appearance of the CA and would harm its setting.

12. In light of the above I find that there would be some, albeit limited harm to the CA. Accordingly, the proposal would be contrary to Policy EN13 and paragraph 127c) of the Framework.
13. In accordance with paragraph 196 of the Framework, it is for the decision maker, having identified harm to designated assets, to consider the scale of that harm. In this case I conclude that the proposal would lead to less than substantial harm to the significance of the CA. This harm should be weighed against the public benefits of the proposal including, where, appropriate, securing its optimum viable use, which I now turn to.
14. In this regard, the proposal would contribute to local housing supply with the construction of new dwellings and the removal of existing poor-quality structures, but this benefit would be moderate. Taking into consideration the points above I find that the harm to the CA would clearly outweigh the public benefits of the proposal.
15. As such it would fail to preserve or enhance the character and appearance of the CA contrary to Policy EN13 of the LP which, amongst other things, seek to ensure the protection and enhancement of the significance and setting of heritage assets; new developments to make a positive contribution to the character and distinctiveness of the local area and ensuring that new development in conservation areas are consistent with its identified special character. It would also conflict with the Framework.

#### *Land stability*

16. I have considered the evidence provided by the appellant including the Site Investigations Report (SIR), which outlines the ground and groundwater conditions following an intrusive site investigation. I have also considered the independent review of the SIR carried out by the Council.
17. Notwithstanding land slippages in the area the site is currently stable, and the groundwater conditions are not inherently unusual. Whilst the full design of the retaining walls and surface water strategy has not been provided, I am satisfied that the underlying ground conditions have been established and that an appropriate structural and drainage strategy could be achieved. As such, based on the evidence before me I am satisfied that sufficient information has been provided and relevant conditions could be imposed if I were minded to allow the appeal.
18. As such, in this regard the proposed development would accord with Policies EN11 and EN12 of the LP which, amongst other things, seek to ensure that new developments do not increase the risk of flooding and include surface water management.

#### **Other Matters**

19. I am not aware of the individual circumstances leading to the Council granting planning permission for houses further up Tofts Hill. In any case, every appeal must be considered on its own merits. These permissions do not justify the harm that I have identified.

20. I acknowledge that the proposed development would meet an identified local housing need on a windfall site in a Service Centre. I also note that it would not compromise the living conditions of existing occupants, adversely affect the safe and efficient operation of the surrounding highway, or that there are no significant ecology or archaeological constraints. However, these factors do not outweigh the harm that I have identified.

### **Conclusion**

21. For the reasons set out above the appeal does not succeed.

*B Thandi*

INSPECTOR