



Appeal Decision

Site Visit made on 12 April 2021

by Mr Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2021

Appeal Ref: APP/Y2430/W/20/3261535

Field OS 8695, Brooksby Road, Hoby LE14 3EA

- 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 Alison Warner against the decision of Melton Borough Council.
 - The application Ref 19/01113/FUL, dated 30 September 2019, was refused by notice dated 7 August 2020.
 - The development proposed is Full planning application for four dwellings and the relocation of a children's play-area on land at Brooksby Road, Hoby.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Hoby with Rotherby Neighbourhood Development Plan (NP) has been confirmed by the Council and will now move to its referendum stage. Policy 14 identifies that new residential development will be supported within, and on the edge, of the four settlements. Criteria includes requiring sites to be up to three dwellings and for affordable housing sites to meet identified un-met need. Furthermore, the Council has identified that Policy 6 of the draft NP sought to designate the site as Local Green Space (LGS). However, this site is no longer listed within the proposed LGS sites in the Referendum version. I have afforded moderate weight to policy 14 in accordance with the advice of paragraph 48 of the National Planning Policy framework (The Framework).
3. A Unilateral Undertaking¹ has been submitted. This offers the proposed dwellings as affordable housing with a 25% discount of their open market value. It would also secure the alternative play space and offer this to the Parish Council. I will return to this later in my decision.
4. Outline planning permission was granted at appeal² on the nearby Brooksby Spinney site (The Spinney development). The development was for up to 70 dwellings, 6 of which being affordable homes. The affordable units would be offered at a 20% discount of open market value. Furthermore, a more recent deed of variation added a provision for these to prioritise residents within the Parish.

Main Issues

5. The main issues are:

¹ Unilateral Undertaking 5th November 2020

² Planning Appeal Reference: APP/Y2430/W/16/3150720

- whether the appeal site would be a rural exception site in accordance with local and national policies; and
- whether the proposed alternative children's play area would be an adequate replacement of the existing facility and fulfil the same role.

Reasons

Policy Background

6. The Melton Borough Council Local Plan 2011-2036 (2018) (LP) establishes the Council's approach to the distribution of housing across the borough. Policy SS2 of the LP seeks to direct most new development towards Service Centres and Rural hubs. Appendix 3 of the LP defines Hoby as a Rural Settlement. Rural Settlements are considered by policy SS3. This policy, among other matters, seeks to support sustainable development in rural areas which would contribute towards meeting a proven local need.
7. The site is outside but adjacent to the settlement boundary, as defined by the draft NP. Hoby is a small village which includes a public house and church hall but provides limited access to goods and services. Furthermore, the site provides limited access to public transport and would be located on an unlit road without pavements. Consequently, future occupiers would be reliant on the private car to access services and facilities. Accordingly, the site would not be a suitable location for open market dwellings.

Rural Exception site

8. Policy C5 of the LP establishes that the Council will support sites for affordable housing in locations that would not normally be suitable for general market housing. This would be where a demonstrable need has been identified for people with a local connection. The proposal would provide an affordable housing development with a discounted open market value.
9. A recent housing need assessment³, undertaken by Midlands Rural Housing (MRH), considered the housing needs of Hoby with Rotherby Parish. This surveyed the needs of residents within the settlements of Hoby, Brooksby, Ragdale and Rotherby. This was undertaken in 2017 and is part of a rolling programme of housing needs over a 5-year period. The survey found a need for 4 affordable homes (3 in Hoby and one in Rotherby) and 4 open market homes within the area. Therefore, although the NP states that the Spinney development would meet some of the housing need identified in the MRH survey, it seems clear to me that the Spinney development would meet the currently identified demand.
10. The Council says that the Spinney Development is now subject to a reserved matters application and that this development is on course to deliver the required affordable housing. Furthermore, the discount offered within the approved scheme (of 20%) aligns with the minimum discount required by the Framework. This level of discount is slightly less than the required level within the Council's affordable housing guidance⁴. The guidance seeks a 25% discount for affordable housing in the ward and the proposal would align with this requirement. Nevertheless, the slight increase of discount offered by the

³ Midlands Rural Housing 2017

⁴ Melton Borough Council – Housing Mix and Affordable Housing – Supplementary Planning Document 2019

proposal is of limited additional merit when comparing the benefits of the proposal against the approved provision.

11. Therefore, the local housing need identified by the MRH survey would be met by the provision of 6 affordable homes on the Spinney development. As a result, I am unconvinced that there is currently a clear and demonstrable need for further affordable housing at this time. Also, although the affordability ratio of housing in Melton may have decreased slightly, the MRH survey acknowledged a trend of increasing house prices, which the survey results would have reflected. Any ongoing variance of affordability would be addressed through future housing need reviews.
12. The Unilateral Undertaking is an executable S106 Legal Agreement. However, although affordable housing units would be secured on site, there is no proven need for these in the area. Therefore, the provisions of the Agreement have only a limited bearing on the merits of the case.
13. As such, the proposal would not qualify as a rural exception site as it would not meet identified needs of the local rural community. The proposal would therefore be contrary to policies C5 and SS3 of the LP. Having applied moderate weight, the proposal would also be contrary to policy 14 of the Referendum version NP. These policies are consistent with paragraph 77 of the Framework, which seeks for exception sites to be supported unless the need for such homes has been met elsewhere.

Community facility and children's play area

14. The appeal site consists of two parcels of land bisected by a public footpath. The smaller parcel is used as a children's play area. The second area is a field used for the grazing of livestock.
15. Policy C7 seeks to retain community facilities, including playing fields, and to prevent development that would result in the loss of a community use. Such loss would only be permitted by the policy where an alternative facility would fulfil the same role. The proposal would result in the loss of the existing play area and its replacement on the adjacent site. The proposed play area would be similar in size to the existing facility. It would also be located within a larger site that would enable greater use of the surrounding grassed areas. It is also of only a limited further distance from the settlement edge. As such, its location would not be appreciably different to the existing provision and its size would be more generous.
16. The replacement site is within flood zones 2 and 3. The Council and interested parties state that the site has been subject to flooding from the adjacent stream in the past. It is undisputed between main parties that the adjacent sewage station site, and part of the field within the application site, has flooded in the past. However, it is disputed between main parties that the proposed play area site itself has flooded. Evidence from interested parties is inconclusive in showing that the play area itself would flood. However, a minor adjustment to the land level of the proposed play area and/or drainage improvement works would ensure that this area would be excluded from localised flooding. In any event, the National Planning Practice Guidance, finds outdoor sport and recreation activities to be water compatible development.

17. As a consequence, the proposed alternative children's play area would be an adequate replacement of the existing facility and fulfil the same role. The proposal would therefore accord with policies C7 and C9 of the LP. These seek, among other matters, for development to provide access to good quality, accessible green spaces.
18. However, policy D1 relates to achieving a good standard of design. As this policy does not directly relate to the reprovision or loss of play space it is not relevant to this main issue.

Other Matters

19. The affordable units of the Spinney development are required by Planning Agreement to be delivered before occupation of 75% of the open market dwellings. However, the affordable units may come forward sooner and therefore could be delivered within the timeframe of the MRH survey. Therefore, this in itself would not be a reason to discount the contribution the Spinney development makes toward local affordable housing need.
20. The village consists of a variety of house types, being generally low-density and set within relatively spacious plots. The proposed development would therefore accord with the character and appearance of the village. It would also present an attractive entrance to the settlement. Nevertheless, an absence of harm to the character and appearance of the area can only be considered as a neutral factor in the planning balance.
21. Issues raised by interested parties, in regard to a right of access over part of the appeal site, is a private matter between landowners and has not affected my findings on the main issues.

Conclusion

22. The Framework seeks to significantly boost the supply of housing. The proposed scheme, being for four affordable homes, attributes significant weight in my consideration of the merits of the scheme. However, the proposal would conflict with the development plan when taken as a whole. There are also no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Mr Ben Plenty

INSPECTOR