



Appeal Decision

Site visit made on 9 March 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2022

Appeal Ref: APP/A2470/W/21/3285325

Manor Farm Barn, Thistleton Road, Market Overton LE15 7PP

- 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 Roger Barclay against the decision of Rutland County Council.
 - The application Ref 2021/0979/FUL, dated 6 August 2021, was refused by notice dated 6 October 2021.
 - The development proposed was originally described as removal of the existing structures and construction of a new dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing barn and agricultural silos, construction of 2 storey dwelling and ancillary works, garaging, landscaping and alterations to the existing access at Manor Farm Barn, Thistleton Road, Market Overton, LE15 7PP in accordance with the terms of the application, Ref 2021/0979/FUL, dated 6 August 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. In my decision above I have used the description of development given on the Council's decision letter and the appellant's appeal form as it is a more comprehensive description than that used on the original application form.

Main Issues

3. The main issues are:
 - whether this location is suitable for this development having regard to the Council's settlement hierarchy; and
 - the effect of the development on the character and appearance of the area including the setting of the Market Overton Conservation Area (MOCA) and a Grade I listed building.

Reasons

Settlement hierarchy

4. It is agreed by the parties that the site is outside the identified planned limits of development for the village of Market Overton. It therefore falls to be considered as development in the countryside, which is the lowest tier on the Council's settlement hierarchy as set out in policy CS3 of the Core Strategy (2011).

5. Policy CS4 of the Core Strategy identifies that new development in the countryside will be strictly limited to particular types of development that support the rural economy and meet affordable housing needs. It is not suggested by the appellant that the proposal would fulfil either of those criteria. Consequently, the new dwelling would conflict with policy CS4. It would also fail to accord with policy SP6 of the Site Allocation and Policies Development Plan Document (2014) (the 'SAPDPD') which similarly limits development in the countryside.
6. However, approval has already been given¹ for the conversion of the existing agricultural barn to a dwelling under the rights available in Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended). This approval is extant and could be implemented at any time, which would result in a dwelling being sited in the countryside beyond the village's planned limits of development. As the proposal would result in the same, this fallback position carries significant weight in my consideration and outweighs the proposal's conflict with the policies identified above.

Character and appearance

7. The appeal site is positioned on the north side of the junction of Thistleton Road, Teigh Road and Main Street. Around this junction there is the Black Bull public house, a small convenience shop, two bus stops, a number of houses, some allotments and, just a short distance away, a church. As such, this location has all the characteristics of being the focus of the village, despite the absence of many buildings to the north of the junction.
8. At present the existing barn is prominent in views northwards along Main Street. The barn has a functional appearance and although such buildings are not an uncommon feature in rural communities, it does not add positively to the character or appearance of the area. The proposed dwelling would be taller, more bulky and positioned substantially further forward than the barn and hence it would be more prominent. However, it would be narrower, would have a smaller footprint, and the spread of built form on the site would be reduced. This would be particularly apparent when seen from positions to the west, across the allotments.
9. It would also have a fairly simple form and its design would be similar to the property at 6 Teigh Road in terms of its scale, height, window arrangement and chimneys. Indeed, it would also not be dissimilar to the dwellings at 12 and 3 Main Street in terms of their form and design. It would be substantially larger than the neighbouring bungalow at 2 Thistleton Road, but the significant gap between the two dwellings would mean that it would not be seen as an inharmonious addition to the street scene. Overall, though its scale would be greater than some houses nearby, it would reflect its position at the focus of the settlement.
10. One of the most striking characteristics of this location, is the consistency of the colours of building materials, with buff coloured stone and brick being prevalent, despite the variety in the form and ages of the buildings. With the use of a finishing stone to match that colour, the dwelling would be in keeping with this key characteristic.

¹ Ref APP/A2470/W/19/3221197

11. With specific regard to the conservation area, the MOCA encompasses most of the village, though not the appeal site. Its significance is partly derived from the consistency in the colour of the buildings, as noted above, which lends a strong homogenous characteristic, but also by virtue of the fact that it mainly delineates the village from the surrounding rural land. The openness of that surrounding land is the main contribution of the MOCA's setting to its significance.
12. The reduced footprint and spread of built form on the site means the openness of the MOCA's setting would be maintained and therefore the significance of the MOCA preserved. In addition, the use of suitable finishing materials would also ensure there is no stark contrast with the buildings within the MOCA.
13. Turning to the setting of the listed building, Section 66 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the building or its setting. The listed building is the church of St Peter and St Paul, and it is Grade I listed. Its main significance is its age, being mainly 14th century but with some Anglo-Saxon elements, and its role as the traditional parish church in the village.
14. The church is positioned towards the back of the churchyard and, due to the trees within the churchyard, only limited views of the church are possible from the main road. Beyond the churchyard, its setting is informed by the openness of the surrounding fields to its north and the allotments to its east, which provide it with a rural backdrop. Also, the use of buff coloured stone in the churchyard walls link it to the dwellings in the village on the south side of the main road. However, these aspects of the listed building's setting make a limited contribution to its significance due to the tree screening.
15. The church is the closest building to the west of the appeal site. Nonetheless, the development would be a substantial distance from the listed building and separated from it by allotments. Indeed, there are few viewpoints from which the church and the dwelling would be seen together; from the east the trees in front of the appeal site and the trees in the churchyard combine to limit views, and from the west the trees in the churchyard and the falling gradient of Teigh Road also restrict views. As noted above, the proposal would be clearly visible, across the allotments, which would be from positions close to the church. However despite the increase in height, the reduction in footprint and spread of built form at the appeal site would mean the development would retain the openness to this side of the listed building and would not compete with it. By having no significant impact on openness, and by using stone to match the church walls and other buildings nearby, the proposal would have a neutral impact on the setting of the listed building, and so its significance would be preserved.
16. In summary, the development would not harm the character and appearance of the area, the setting of the conservation area or the setting of the Grade I listed building. It therefore would accord with Core Strategy policy CS19 which requires new development to contribute positively to local distinctiveness. It would also respect SAPDPD policies SP15 which aims to ensure development complements the character of the local area, and SP23 which supports development which is sensitive to its landscape setting. The proposal would also comply with Core Strategy policy CS22 and SAPDPD policy SP20 which expects developments to protect historic assets and their setting.

Other matters

17. I note the concerns of a neighbour with regard to a loss of privacy and light at her property. There would undoubtedly be a view from the first-floor windows in the development to the neighbour's rear garden, and it may reduce the amount of daylight received in the garden in the evening. However, I consider the distance between the development and the garden would be significant and these impacts would not be so severe that the living conditions of this neighbour would be unacceptably harmed. Also, their concerns regarding retaining walls would be matters for the two parties to discuss, and their concerns regarding the landscaping could be addressed by further details of the landscaping which can be provided.

Conditions

18. I have considered the Council's suggested conditions. Where necessary, and in the interests of clarity and precision, I have slightly altered the conditions to more closely reflect the advice in the National Planning Policy Framework and the Planning Practice Guidance.
19. I have attached the standard conditions relating to the commencement of the development and the approved plans in the interests of certainty.
20. In order to protect the character and appearance of the area, conditions are attached relating to finishing materials, landscaping and tree protection. Two conditions are imposed relating to the surfacing of the vehicular access and the provision of entrance gates in the interests of highway safety.
21. Conditions relating to the recommendations of the protected species survey, swift boxes and lighting are necessary in order to promote biodiversity. I have also attached conditions relating to archaeology, so as to protect the historic environment, and contamination to protect the amenities of future residents.

Conclusion

22. Though there is conflict with policies CS3, CS4 and SP6, that conflict is outweighed by the extant approval for a dwelling on this site. The development would accord with policies CS19, CS22, SP15, SP20 and SP23. As such, the development accords with the development plan taken as a whole and there are no other material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001 Rev B, 002 Rev A, 003 Rev B, 004 Rev A, 005 Rev A, 006 Rev A, 007, 008, 009, 010, 011, 012, 013, 016, 017, 018 Rev A and 019 Rev A.
- 3) No development above ground level shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The surface material of the vehicular access within five metres of the highway boundary must be porous and no unbound material shall be used.
- 5) The gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of six metres from the nearside edge of the carriageway.
- 6) No development shall commence until an assessment of the risks posed by any contamination has first been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall include an investigation to identify the extent, scale and nature of the contamination and the measures to be taken to avoid risk to people, buildings and the environment when the site is developed. The site shall be remediated in accordance with the approved measures before development takes place.
- 7) No development shall take place until an archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
 - i. the programme and methodology of site investigation and recording;
 - ii. the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation
 - iii. the programme for post investigation assessment;
 - iv. the provision to be made for analysis of the site investigation and recording;
 - v. the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - vi. the provision to be made for archive deposition of the analysis and records of the site investigation;

- No development shall take place other than in accordance with the Written Scheme of Investigation.
- 8) The recommendations in section 6 'Recommendations And Mitigation' of the Protected Species Survey report (Philip Irving, November 2020) shall be implemented in full prior to and during the construction phase.
 - 9) Before the development is first occupied details including photographs of the location and type of 1 group of 3 Swift boxes/bricks installed on the dwelling shall be submitted to and approved in writing by the local planning authority. The boxes shall remain in perpetuity thereafter.
 - 10) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to its installation. Development shall be carried out in accordance with the approved details.
 - 11) Notwithstanding the details on drawing no. 003 Rev B, and contained in the document entitled 'Landscaping Proposal' dated August 2021, no development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
 - 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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.
 - 13) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and the appropriate working methods in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved scheme before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made.