



Appeal Decision

Site visit made on 7 June 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2022

Appeal Ref: APP/F2415/W/22/3290214

Manor Farm, Leicester Road, Mowsley, Leicestershire LE17 6ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms Catherine Lawrence against the decision of Harborough District Council.
 - The application Ref 21/01378/OUT, dated 27 July 2021, was refused by notice dated 17 September 2021.
 - The development proposed is described as “erection of detached dwellinghouse”.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with access, landscaping, layout and scale considered at this stage. Drawing 5033/AG/20/002-E includes the details of appearance of the dwelling, a matter which is reserved for future consideration. I have therefore treated the plan as illustrative in this regard. I have determined the appeal on this basis.

Background and Main Issue

3. There is no dispute between the main parties that the appeal site is in the countryside. It is also not disputed that the proposal would conflict with the spatial strategy as set out within the Harborough District Council Local Plan (“Local Plan”) which, in regard to Policies GD2, GD4 and H5, seek to direct development to within the settlements, in a hierarchical manner, in the interests of both encouraging sustainable patterns of development and protecting the countryside. There is no evidence that would lead me to a different view.
4. The main issue is therefore whether the conflict with the development plan is outweighed by other material considerations. Specifically, in this case, the personal circumstances of the appellant.

Reasons

5. The appellant currently lives with their family at Manor Farm. The basis of the appeal scheme is to provide an independent unit of accommodation nearby for the appellant to live on their own but with support for essential care close at hand. The dwelling has been designed to meet the specific health needs of the appellant which are documented in sufficient detail in the evidence. It is

apparent, and I am inclined to agree, that the proposed dwelling would represent an improvement to the appellant's current living standards.

6. However, there is no compelling evidence to suggest why, in the face of conflict with the Council's spatial strategy, the required accommodation, in terms of its location, standard and facilities, could not be provided by other means. Such as, for example, a detached annexe within the curtilage of Manor Farm. Nor necessarily why the accommodation needs to be an independent dwelling.
7. I have given some thought as to the use of a personal condition attached to the grant of planning permission. Mindful though I am of Planning Practice Guidance which sets out that conditions limiting the benefits of a planning approval to a particular person or group of people are rarely appropriate since planning permission usually runs with the land. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.
8. In this particular case however, such a condition would be unreasonable, as it may render the dwelling unoccupiable if the circumstances of the appellant were to change. Such a condition would therefore not comply with the six tests detailed within paragraph 55 of the National Planning Policy Framework (NPPF).
9. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Act sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149.
10. The negative impacts of dismissing this appeal would arise from the appellant continuing to live in accommodation that is unsuitable for their needs. However, it does not follow from the PSED that the appeal should succeed. I have taken into account the personal circumstances of the appellant. However, I am not convinced that their needs cannot be achieved by a less intrusive action that would comply with the policies of the Local Plan. My actions in this respect, and my decision therefore on the appeal, are a proportionate response to the requirements of the Act and those of the plan lead system.

Conclusion

11. With the above in mind, there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

A Berry

INSPECTOR