



# Appeal Decision

Site visit made on 21 June 2022

**by M Russell BA (Hons) DipTP MRTPI**

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

**Decision date: 18<sup>th</sup> July 2022**

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**Appeal Ref: APP/Y2430/W/21/3289753**

**Field OS 5000 and 5812, Tofts Hill, Stathern, Leicestershire**

**Easting (x) 477430 and Northing (y) 331056**

- 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 Bell and Ms Sparks against the decision of Melton Borough Council.
  - The application Ref 21/01060/FUL, dated 10 September 2021, was refused by notice dated 10 December 2021.
  - The development proposed is demolition of redundant barns and their replacement with a single dwelling house (Class C3).
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. Since the appeal was lodged the Stathern Neighbourhood Plan (NP) was 'made' on 27<sup>th</sup> June 2022. Consequently, the NP now forms part of the development plan for the area and its policies carry full weight. The Council has provided the 'made' versions of the text for Policies H1 and H2 of the NP. The Council has also confirmed that the 'Limits to Development' that were indicated on figure 2, of what was previously the emerging NP, are the same as included within the 'made' version, albeit now referenced in the NP policies as Figure 3. The main parties have been provided with an opportunity to comment on the policies of the 'made' NP and I have taken any comments received into consideration as part of my assessment.

## Main Issues

3. The main issues are:
  - (i) whether the appeal site would be a suitable location for the development, having regard to the development plan and national policy; and
  - (ii) the effect of the proposal on the character and appearance of the area and the setting of the Stathern Conservation Area.

## Reasons

### *Location*

4. Policy SS1 of the Melton Borough Local Plan (2018) (LP) supports a presumption in favour of sustainable development. It confirms that proposals that accord with the policies of the LP and Neighbourhood Plans will be approved without delay, unless material considerations indicate otherwise.

5. Policy SS2 (Development Strategy) of the LP sets out amongst other things the Council's spatial strategy and confirms that approximately 65% of the Borough's housing need will be accommodated in the Melton Mowbray Main Urban Area and that approximately 35% of the Borough's housing residual requirement will be accommodated in the Borough's Service Centres and Rural Hubs. Policy SS2 also confirms that Rural Settlements will accommodate a proportion of the Borough's housing need by planning positively for new homes as 'windfall' sites within and adjoining settlements. Outside these areas new development will be restricted to that which is necessary and appropriate in the open countryside.
6. My attention has been drawn to a previous appeal<sup>1</sup> on the site for a dwelling where the principle of development in this location was not disputed. However, the appeal site sits outside the 'Limits to Development' of Stathern as defined in the very recently made NP. This is a material change in circumstances to which I attach very significant weight. In line with Policy H1 of the NP, the site should be treated as open countryside with development carefully controlled in line with local and national strategic planning policies.
7. Policy H2 (Windfall Sites) of the NP confirms amongst other things that, where practical, developments should meet all of criteria (a) to (g) under this policy. As the site is not within the Limits to Development, criteria (a) requires that the development meets the circumstances under paragraph 80 of the National Planning Policy Framework (the Framework). However, given the close proximity of the site to Stathern the dwelling would not be isolated. Therefore, the circumstances under paragraph 80 do not apply and the proposal cannot meet Policy H2 (a).
8. Even if the circumstances under paragraph 80 of the Framework did apply, the proposal would not meet them as it is not for a rural worker's dwelling, does not relate to using or securing the future of a heritage asset, would not re-use redundant or disused buildings and would not involve the subdivision of an existing residential building. Furthermore, the proposal is of a simple form and design rather than being of exceptional quality.
9. Although I have found the dwelling would not be isolated in terms of the described in the Framework, this does not mean that a new market dwelling which would be detached from the settlement edge and in the countryside would be necessary or appropriate. More specifically, there is no substantive evidence before me to suggest that the proposal would help to meet an identified housing requirement for the parish. I have also found under the second main issue that the proposal would not be in keeping with the character of the area. Consequently, criteria (b) and (d) of Policy H2 are also not met, meaning that overall there would be significant conflict with this policy.
10. I conclude, the appeal site is not a suitable location for the dwelling having regard to the requirements and sustainable objectives of Policies SS1 and SS2 of the LP, Policies H1 and H2 of the NP and the Framework.

#### *Character and appearance*

11. The appeal site is currently occupied by a large agricultural barn and is situated to the north side of a narrow lane called Tofts Hill. Mature planting and a

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<sup>1</sup> APP/Y2430/W/21/3267888

substantial gate sit along the boundary of the site with Tofts Hill. There are dwellings of varying size and design on Tofts Hill. However, these are located either opposite to the site, or to the lower section of Tofts Hill, and are mainly of a traditional form and materials.

12. The site sits in an elevated position and there is a distinct gap between the site and the nearest dwelling on the same side of the lane at No 7 Tofts Hill. As was identified by the Inspector that dealt with the previous appeal *'this gap is part of an expanse of open countryside to the north which is only broken by the barn itself to one side and houses on The Green. From here, Tofts Hill rises steeply from the village and the transition from village to open countryside is apparent.'* In these respects, I concur with the previous Inspector that the site makes a positive contribution to the character of the area, despite the poor condition of the barn.
13. The evidence before me indicates that the dwelling would be a 52% decrease in footprint and 42% decrease in volume when compared with the agricultural barn. Even so, it is not unusual to see large scale agricultural buildings within a rural landscape. Although smaller, the dwelling would itself be a substantial building. While the design seeks to emulate the form and facing materials of an agricultural barn, its windows, proposed areas of hard standing, parked vehicles, any domestic paraphernalia placed within the curtilage and light emitted from the building during hours of darkness would all allude to its domestic use and would be at odds with the inherently rural aspects of their immediate surroundings.
14. The front elevation of the dwelling would be substantively glazed. The glazing would be recessed and the dwelling would be set away from the front boundary much of which is heavily vegetated. These factors would help to reduce the perception of the dwelling for passers-by on Tofts Lane. However, views of the dwelling through the access point, or alternatively more oblique views over any closed gates, would be likely to reveal the residential nature of the development.
15. Although filtered by intervening buildings and landscaping, the existing barn is appreciable from the lower ground on Tofts Hill close to its junction with The Green. Similarly, it is likely that parts of the dwelling, particularly its roof plane, would also be glimpsed in these views.
16. More notably, substantial parts of the existing barns are exposed in views from further along The Green, near to Woodview Paddock. The 'north west elevation' of the dwelling would be comparable in height to the closest parts of the barn visible in this view. Due to its mass, its elevated position amongst fields and overtly domestic window openings, the building would not successfully integrate into the edge of the village in this view. Any new planting along this boundary would take time to establish. Given its close proximity to the windows on the 'north west elevation', there is also the potential that occupants of the dwelling would also want to carefully manage the height and density of planting. Consequently, it is likely that the residential nature of the development would remain evident in the longer term from this vantage point.
17. The appellant's planning statement includes extracts from the Council's 'Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study' (2015) which confirm that the site does not sit within an identified Landscape Character Zone. Even if I accept that there may be instances where sensitively

designed development in proximity to the settlement edge could be accommodated from a visual perspective, for the reasons set out, in this instance the proposal would erode the agrarian character to this part of the landscape and would conflict with the design requirements of the development plan.

18. The appeal site sits outside but in close proximity to the Stathern Conservation Area (CA). As identified by the Inspector that dealt with the previous appeal, the significance of the CA derives from its loose knit form, with dwellings interspersed with important open areas enhancing character. The previous Inspector also noted that the Stathern Conservation Area Appraisal (CAA) highlights the importance of Tofts Hill and its contribution to the significance of the CA referring to the scattering of modern buildings at the bottom of the hill before open countryside takes precedence, while the elevated vantage point over the village to open countryside is highlighted as 'stunning'. The appellant's heritage statement also lists views that contribute positively to the CA including views into the surrounding countryside from within the CA.
19. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 200 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
20. Despite being outside the Stathern Conservation Area (CA) I saw for myself the relationship of the site with the CA and concur with the previous Inspector that *'the appeal site makes a positive contribution to the setting of the heritage asset due to its transitional and gateway function from built form to open countryside and vice versa'*. I have seen the conclusions of the appellant's Heritage Statement. I accept that when taken in isolation the removal of the dilapidated barn would be beneficial to the open attributes of the land to the north of the CA. However, I do not accept that its replacement with the proposed dwelling would enhance the significance of the CA. The harm that I have identified to the character and appearance of the area through the introduction of the proposed dwelling would also result in less than substantial harm to the setting of the CA.
21. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
22. The development would add a single dwelling to the Borough's housing stock. There would also be associated social and economic benefits related to the construction of the development and the contributions of future occupiers to services and facilities in the area. I attach moderate weight to these benefits. Therefore, there are no public benefits of sufficient weight to outweigh the less than substantial harm that would arise from the development on the setting of this heritage asset or the great weight I must attach to its conservation.
23. I conclude, the proposal would harm the character and appearance of the area and the setting of the CA. In that regard it would conflict with the sustainability, design, character, local distinctiveness and conservation

requirements of Policies EN1 (Landscape), EN6 (Settlement Character), EN13 (Heritage Assets), SS1 (Presumption in Favour of Sustainable Development) and SS2 (Development Strategy) of the LP and Policies H1 (Limits to Development) and H2 (Windfall Sites) of the NP. The proposal would also conflict with the Framework which advises that great weight should be given to the conservation of heritage assets.

### **Other Matters**

24. Even though there is some third-party support for the proposal, this does not override the conflict with the development plan identified under the main issues. The plans indicate that the north of the site would include an area dedicated to ecological net gains and habitat creation. The dwelling would incorporate measures to reduce energy and water consumption. However, it is unlikely that benefits accruing from these aspects of the scheme would be of a significant magnitude.
25. I have seen the advice that the appellant obtained from Counsel with regards to the materiality of a change of use of the agricultural barn to a dwellinghouse under Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The advice acknowledges that whether the conditions under Class Q are met is a matter of planning judgement. More recently, the Council has refused an application made under Class Q on the appeal site for such a change of use<sup>2</sup>. It is not my role to scrutinise the Council's decision on that separate Class Q application as part of this appeal. Given the Council's formal decision on this matter, the possibility of rights under Class Q being exercised does not presently exist. This somewhat diminishes the weight I attach to this matter as a potential fallback.

### **Conclusion**

26. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
27. The appeal site is not a suitable location for the development. The proposal would also result in harm to the character and appearance of the area and less than substantial harm to the setting of the CA. It would conflict with the development plan taken as a whole and the sustainable objectives of the Framework. There are no material considerations 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 be dismissed.

*M Russell*

INSPECTOR

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<sup>2</sup> LPA Ref 22/00405/GDOCOU