



Appeal Decision

Site visit made on 15 December 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/T2405/W/22/3299464

The Mulberrys, Desford Road, Thurlaston LE9 7TE

- 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 Paul Loomes against the decision of Blaby District Council.
 - The application Ref 21/0774/FUL, dated 11 June 2021, was refused by notice dated 21 January 2022.
 - The development proposed is a detached 5-bedroom home with parking and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Paul Loomes against Blaby District Council. This application is the subject of a separate decision.

Procedural Matters

3. I have shortened the appellant's description of development to make it more succinct.
4. The Fosse Villages Neighbourhood Plan (2021) (NP) was 'made' following submission of the application. Despite the appellant's comments I must make my decision based on the development plan, including the neighbourhood plan, prevailing at the time of my determination. I am satisfied that no interested parties have been prejudiced by my approach.
5. The appellant contends that the appeal site is garden land by virtue of the '10-year rule'. However, this is not a matter for me to determine in the context of an appeal made under section 78. I have therefore given this aspect of the appellant's argument negligible weight in coming to my decision. It is open to the appellant to apply to have the matter determined under section 191 of the Act. Any such application would be unaffected by my determination of this appeal.

Main Issues

6. The main issues are:
 - Whether the appeal site is an appropriate location for new housing having regard to the local housing strategy and access to services and facilities:

- The effect of the proposed development upon the character and appearance of the area;
- The effect of the proposed development upon the safe and efficient operation of the highway network; and
- The impact upon trees.

Reasons

Appropriate location for new housing

7. Policy CS1 of the Blaby District Local Plan (2013) (CS) sets out the development strategy for the District. It sets out that most new development will take place within and adjoining Leicester with lower levels of growth taking place in the Rural Centre, Medium Central Villages and Smaller Villages. Thurlaston is identified as a Smaller Village reflecting its limited services and facilities and public transport options.
8. The village has few services and facilities including churches, a primary school and public house. According to the Council's Statement, local bus services are infrequent to larger settlements. Taking into consideration the limited services and facilities available in Thurlaston and the distance to larger villages and Leicester with more services and facilities, such as supermarkets, employment opportunities and health facilities future occupiers would be overwhelmingly reliant on private vehicles to access services and facilities to meet their day-to-day needs. There are no realistic alternative modes of transport or footpaths that would be available for future occupiers.
9. Consequently, the site would not be an appropriate location for new housing and the accessibility to services and facilities would be poor contrary to the requirements of CS Policies CS1 and CS5 which, amongst other things, seek to encourage and develop the use of more sustainable forms of transport and to focus new development in the most appropriate locations.

Character and appearance

10. It is common ground that the site lies beyond the settlement boundary of Thurlaston as defined in the CS and the NP. However, the appellant contends that it is necessary to consider the facts on the ground. CS Policy CS18 state that land outside the limits to the built development will be designated as countryside. This policy and NP Policy FV8 advise that the need to retain Countryside will be balanced against the need to provide new development (including housing) in the most sustainable locations.
11. Whilst I have given the on the ground situation consideration the fact remains that the development is still outside of the built-up limits of Thurlaston. Whilst close by, through the separation from the main built-up area the appeal site remains detached from the village surrounded by undeveloped land either in the form of rear gardens or open countryside. Moreover, settlement boundaries are defined through the Local Plan or Neighbourhood Plan process. It is not within the scope of a Section 78 appeal to consider such matters.
12. The appeal site is described by the Council as a paddock, however, to me it has the appearance of a managed green space. The site is positioned to the rear of a dwelling known as 'The Mulberrys' and according to the appellant forms part

of their rear garden. Holt Close a residential cul de sac is located to the west and to the east and north are paddocks and open countryside.

13. Irrespective of whether the site is a paddock or garden land its open nature contributes to the rural character of the surrounding open countryside and provides a verdant setting to the village and an appreciation of the open countryside beyond.
14. I acknowledge that the development would not be visible from the road as a result of its position and intervening built form. Whilst views of the new dwelling, from the Public Right of Way and countryside, would be screened to some degree by vegetation it would be visible from public vantage points in the surrounding countryside on account of its position and scale. It would also be viewed from the rear windows of neighbouring properties such that the change in the built form of the area would be noticeable from a number of public and private vantage points.
15. The proposed development beyond the dwellings along Desford Road would be segregated from the existing built form and would be very apparent from the surrounding area appearing as an incongruous feature in an otherwise open area. This arrangement would undermine the established pattern of development detracting from the rural appearance of this part of the village.
16. Despite resembling an agricultural building, the proposal would introduce substantial built form into this open area diminishing the sense of space to the rear of the dwelling and failing to successfully integrate into the area. Furthermore, the cumulative impact of the driveway, parking area and proposed garden area would result in a domestication of the site that would significantly erode its verdant and rural appearance adversely affecting the character and appearance of the area.
17. I conclude that the proposed development would adversely affect the character and appearance of the area contrary to CS Policies CS2 and CS18; Policy DM2 of the Blaby District Local Plan (Delivery) Development Plan Document (2019) (LP) and NP Policies FV6, FV7 and FV8 which, amongst other things, seek to improve the design quality of all new developments in the District, development not to have a significantly adverse effect on the appearance or character of the landscape; protect the important areas of the District's natural environment and for developments to reflect the distinctive and traditional character of Fosse Villages.

Safe and efficient operation of the highway network

18. The site is accessed from a driveway that currently serves a small number of dwellings. The access point is narrow as is the driveway, which is wide enough for a single vehicle, but along its entire length the driveway varies in width.
19. At the time of my visit on a weekday morning, I observed vehicles parked on the pavement and in close proximity to the access. Whilst I acknowledge that this is a snapshot in time, based on my observations and the evidence before me, it is evident that on street parking is prevalent along Desford Road.
20. As the Local Highway Authority advise the proposed development would not achieve adequate visibility for occupiers when leaving the site by car due to the position and height of the hedge either side of the access. This lack of visibility is compounded by parked vehicles obscuring views for drivers in both directions

along the road which would increase the likelihood for collisions with oncoming vehicles. This would adversely affect highway safety, despite the fact that the access width and dropped kerb are existing features. The absence of traffic accidents does not alter my conclusion that the lack of visibility adversely affects highway safety.

21. Whilst it is agreed that the parking and turning area in front of the proposed dwelling is acceptable this would not overcome the harm that I have identified.
22. I conclude that the development would have an unacceptable impact on the safe operation of the adjoining highway contrary to LP Policy DM8 which, amongst other things, states that all new development will be required to meet highway design standards as set out in the most up-to-date Leicestershire Local Highway Guidance.

Impact on trees

23. The site is populated along its boundaries, with vegetation and specimens of trees. A number of trees and vegetation would be cleared to make way for the proposed development.
24. I note that the appellant is willing to accept appropriately worded planning conditions, post decision. However, the potential effect on trees is a significant consideration given the site's immediate setting. Based on the evidence before me I am not satisfied that this matter has been investigated to demonstrate that there would be no harm to nearby trees. Whilst there is nothing to indicate that the trees could not be felled as they are present on site I must take account of any potential impact upon them.
25. Whilst the Council's Tree Officer and Ecology Officer did not raise concerns to the application this does not alter my findings in respect of this issue.
26. Therefore, the proposed development would be contrary to CS Policy CS2, LP Policy DM2 and NP Policy FV6 which, amongst other things, require development to be in keeping with the appearance and character of the existing landscape and to protect locally significant features such as traditional walls, hedgerows and trees.

Other Matters

27. I note that the National Planning Policy Framework supports windfall development. I also acknowledge that maintaining a deliverable supply of housing land is not a ceiling and the proposal would contribute towards the supply of self-build housing. The proposed development would also lead to employment opportunities through the construction of an additional dwelling; support local facilities and would incorporate green technologies and features but these benefits are modest commensurate with the provision of a single dwelling. I therefore afford these benefits limited weight. Taking into consideration the points above I find that the harm resulting from the proposed development would not be outweighed by these factors.
28. I note the appellant is a long standing resident of Thurlaston and that the proposed development would be for the appellant's daughter who has specific needs. Whilst I have given these matters careful consideration, I am mindful of the advice contained in Planning Practice Guidance that in general planning is concerned with land use in the public interest. It is also probable that the

proposed development would remain long after the current personal circumstances cease to be material. For these reasons, I find that these factors are not sufficient to outweigh the harm that I have identified.

29. I note the appellant's comments in relation to the grant of planning permission for a new dwelling close to the site and on Shuttleworth Lane. However, every appeal must be considered on its own merits. The granting of other permissions in the area does not justify the harm that I have identified.

Conclusion

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

B Thandi

INSPECTOR