



Appeal Decision

Site visit made on 18 April 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2023

Appeal Ref: APP/F2415/W/22/3312699

**Archway House, Harborough Road, Lubenham, Market Harborough
LE16 9SZ**

- 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 Mr Alec Welton against the decision of Harborough District Council.
 - The application Ref 21/02114/OUT, dated 1 December 2021, was refused by notice dated 22 June 2022.
 - The development proposed is erection of up to eight sustainable and energy positive self-build/custom build homes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form states that outline planning permission is sought as well as approval of access, landscaping, layout and scale details. Only matters of appearance are reserved for future consideration.
3. The submitted masterplan shows the layout of the development with 7 of the plots for the proposed dwellings next to an existing car park. A plan shows a general layout for these plots with a building footprint and details on the sizes of the ground floor and gross internal floor area of each dwelling. The eighth plot would be set away from the others and is annotated on the plans as the "owner's house". Drawings showing the ground and first floor layout of this dwelling are before me for consideration. Also, a drawing showing a landscape scheme for the whole of the site has been provided.
4. The appellant explains that, apart from their own proposed house, the other 7 plots would be made available on the open market, with the purchasers responsible for applying for reserved matters approval. The appeal statement suggests that such applications would cover matters such as the layout of the plot and scale of the property. However, the application form states that layout and scale are not reserved matters. To be clear, I have taken the submitted details of layout, scale, access and landscaping into account in my assessment.
5. Reference is made in the submissions to another planning application for the same property (hereafter referred to as the other planning application). This seeks planning permission for new offices, studios and overnight accommodation with associated car parking, solar PV canopy and landscaping as well as erection of 1 dwelling. I understand the Council has resolved to grant

planning permission for this scheme subject to the completion of a legal agreement.

Main Issues

6. The main issues are (i) the effect on the character and appearance of the site and the area, and (ii) whether the development would be in a suitable location having regard to the policies of the Harborough Local Plan 2019 (the LP) and accessibility to services.

Reasons

Character and appearance

7. At the appeal property there is a cluster of buildings towards the northeast corner with an adjoining car park. Grassed areas, mature trees and a lake lie on the south and western parts of the site. Behind the buildings and on the eastern boundary is a wooded area on a steep slope.
8. The site was previously used as a garden centre, although little evidence remains of this use and associated structures and buildings. Currently, the tree cover and open areas provide the property with a pleasant natural appearance, despite the influence of the buildings and car park. This is readily appreciated from the A4304 and roadside pavement outside the site, as well as from the public right of way that runs up the slope of an open field on the opposite side of the road. The site and its surroundings are not designated for their scenic beauty or landscape quality. Nonetheless, the extensive views of undulating fields with hedgerows and trees give the locality an attractive rural feel.
9. The details of the development proposed under the other planning application are not before me. As such, I am unable to ascertain how this scheme would affect the appearance and character of the site. In such circumstances, it is appropriate to consider the effects of the appeal proposal against the appearance of the site as it exists.
10. The 7 proposed units would occupy a grassed area on the southern side of the car park. Appearance details are not before me but the houses are bound to be seen from the existing buildings, the car park and the grounds at the appeal property. The landscape details show new trees on the frontage of the site and these would supplement the cover provided by existing trees. Even so, the screening effect of the trees would not prevent sight of the 7 dwellings from the road, the pavement and the field opposite, especially during times of leaf fall. The row of buildings would be particularly noticeable from the elevated parts of the public footpath in the field on the opposite side of the road.
11. The 7 units would be seen with the existing buildings and vehicles on the car park. However, the houses would markedly increase the extent of the buildings on the site. Views from the road and public right of way of the trees towards the rear of the site would be interrupted and spoilt by the row of dwellings. Also, a fairly regimented line of houses would look peculiar within the vegetated grounds of the appeal property and within the site's rural surroundings. This incongruity would be striking and it would significantly undermine the site's contribution to the visual qualities of the area. I am unconvinced from the submissions that the proposed landscape works would ensure the 7 units assimilate appropriately to their surroundings. Also, the

visual enhancement from new planting would not fully offset the highly noticeable impact of the houses.

12. The appellant's landscape and visual impact assessment (LVIA) considers the effect of the proposal on views in the wider area. The 7 units would not be easily seen from Lubenham or from properties in Market Harborough. Also, they would not affect the tract of open fields between the 2 settlements.
13. Even so, the LVIA recognises the dwellings would be seen from the road. It is stated that such views would be fleeting for those passing in vehicles. However, pedestrians walking on the roadside pavement would have clearer and longer lasting sight of the houses. Also, the LVIA acknowledges that views of the landscaped gardens from the field and footpath opposite would be adversely affected by the 7 units. As such, the LVIA does not contradict my views on the harm that would be caused by the development.
14. The owner's house would be set back behind the existing buildings so that it would be unseen from the road and the footpath in the opposite field. This house would be visible at a distance from a cycleway/footway along the route of a disused railway to the south of the site. However, it would be seen amongst and against the wooded slope. Proposed tree planting would also help screen and mitigate the visual effects of the owner's house so that it would not stand out as an unusual feature. Therefore, this element of the development would avoid adverse effects to the appearance or character of the area. However, acceptability in these regards would not address nor override the detriment caused by the 7 units.
15. For these reasons, I conclude the development when considered as a whole would cause harm to the character and appearance of the area. In these regards, it would not accord with LP policies GD5 and GD8 and policy LNP03 of the Lubenham Neighbourhood Development Plan 2016 to 2031 (NP). Amongst other things, these policies seek development of high design quality that respects its context and avoids adverse impacts on local landscape character.

Suitability of location

16. LP policy SS1 sets out a spatial strategy and looks to direct development to appropriate locations. Market Harborough is identified as a sub-regional centre. Subject to various provisos, Part 2 of LP policy GD2 allows development that adjoins the existing built up area of Market Harborough. There are no defined settlement boundaries to help assess proposals against LP policy GD2. Also, there is a dispute between the main parties as to whether the appeal site adjoins the built up extent of the town. In the absence of any clear definition within the LP, the question becomes a matter of planning judgment having regard to the situation on the ground.
17. Unlike the adjacent fields to the west and south, the appeal property includes buildings and so it does not appear as open countryside. Also, unlike the nearby fields, the site lies outside the Area of Separation between Market Harborough and Lubenham as defined in the NP.
18. Also, directly to the east of the appeal property is The Hill and other dwellings on Lubenham Hill. The trees on the slope screen these properties from public vantage points and so from the A4304 the buildings at the appeal property appear slightly detached from the built up part of Market Harborough.

However, it is clear from maps that the gap between the buildings and the Lubenham Hill residences is fairly narrow, albeit occupied by trees.

19. In light of these factors, it is reasonable to treat the buildings on the Archway site as being on the western edge of the built up extent of Market Harborough. The proposed dwellings would be close to the existing buildings and so they would adjoin the built up extent of the town.
20. The proposed 8 units would not disproportionately exceed the 1078 new dwellings earmarked for Market Harborough under LP policy H1. Accordingly, the proposal would comply with Part 2a of LP policy GD2 and so it would be in an acceptable location when having regard to LP policies. As a result, the development would also accord with LP policy H5 which supports self-build units in any location suitable for housing. It follows that LP policies GD3 and GD4 are irrelevant as they relate to housing development outside of Market Harborough and adjoining land.
21. With reference to guidelines¹, the Council raises concern over the distance of the proposed dwellings from services. However, I am referred to no development plan policy that requires new housing to be within a defined distance from facilities or that seeks to reduce reliance on car travel. As such, the Council's concerns do not outweigh nor undermine the compliance with LP policy GD2 in terms of the location of development.
22. LP policies GD8 and IN2 both look for developments to facilitate and to encourage the safe and convenient movement of pedestrians. The pavement on the A4304 would provide a potential walking route between the proposed dwellings and facilities in Market Harborough. Visibility at the site entrance is good in both directions and so crossing the road would not be unsafe nor discourage use of the pavement. There would be a steep but fairly short upward slope for pedestrians approaching Market Harborough from the site and there are no streetlights until the top of the incline. Even so, the pavement would provide a reasonable pedestrian route to and from the proposed development. Separation distances would be more than the preferred maximum as set out in the guidelines but they would not be so excessive to entirely preclude walking to the nearest facilities from the proposed houses.
23. Therefore, I conclude the development would be in a suitable location when having regard to LP policies and accessibility. In these regards, it would accord with LP policies GD2, GD8, H5 and IN2. Acceptability in these regards is a neutral factor in my overall assessment. LP policies GD1 and H1 are also referred to in the Council's refusal reasons but they contain no provisions relevant to this particular issue.

Other Considerations and Planning Balance

24. The Hill is a grade II listed building that gains its significance from its age and architectural style and form. The wooded slope would ensure the proposed development is not seen with the listed building and so there would be no effect on its setting nor its significance. Also, the dwellings would be too far away to affect the setting of any heritage assets in Lubenham. My findings in these regards are a neutral factor in my assessment.

¹ Chartered Institute of Highways and Transportation Guidelines for providing journeys on foot.

25. The proposal has attracted supportive representations. The comments made are noted but they do not address the harm I have identified under the first main issue. Also, they do not in themselves provide justification to allow a development contrary to LP and NP policies.
26. The houses would be within the grounds of existing buildings and given the definition as set out in the National Planning Policy Framework (the Framework) they would be on previously developed land. However, they would be on parts of the site that are vacant of buildings and the definition states that it should not be assumed that the whole of a curtilage should be developed. Therefore, I attach limited weight to this factor as a claimed benefit.
27. The appellant states the proposed homes would be energy neutral and highlights how the development would support the transition to a low carbon future, unlike other houses constructed in Market Harborough. A submitted design code for the houses sets out specifications regarding energy efficiency, renewable energy facilities, durability of materials, water efficiency and electric vehicle charging points. It is likely that such measures would ensure the occupation of the proposed dwellings generates less carbon emissions compared to other residences. This would be a positive aspect of the scheme.
28. The minor loss of on-site vegetation would be offset by new tree and hedgerow planting. Also, proposed landscape features would help achieve a net gain in the biodiversity value of the site. This would be a minor benefit of the scheme.
29. The development would create construction employment, although this is a modest benefit given the number of proposed units. Also, it would add to the overall housing stock. However, the Council contends that it can show well in excess of the minimum of 5 years housing land supply as referred to in the Framework. Therefore, I attribute only limited weight to the benefits of the scheme in these regards.
30. There is a duty under the Self-build and Custom Housebuilding Act 2015 (as amended) for the Council to keep a register of persons who are interested in acquiring a self-build or custom-build plot. The Council should grant enough permissions for serviced plots to meet the demand shown by the register.
31. In granting planning permission for up to 9 houses at Sutton in the Elms², an Inspector found that as of 30 October 2022 there was an unmet demand for 45 self-build housing plots in the Harborough district. While additional plots may potentially come forward, the Inspector also found that demand would increase significantly when having regard to entries on the Council's register. The Council has not sought to dispute the Inspector's findings through its submissions on this current appeal. Therefore, whilst general housing land supply is above the Framework's stated target figure, there is a recognised need for additional self-build housing plots.
32. The proposal is for self-build/custom build houses. The Council says it is not satisfied that the initial owners of the 7 units would have a primary input into the design of the houses as approval is now sought for details of scale and layout. However, there is scope for the initial owners to have a significant input into the final appearance of the properties as approval for such details would need to be sought. Also, it would be reasonable to impose the planning

² Appeal reference number APP/F2415/W/22/3303898

condition as suggested by the Council that requires the dwellings to be constructed and occupied in accordance with the definition as set out in the Self-build and Custom Housebuilding Act 2015.

33. As such, the proposed development would contribute towards addressing the shortfall in self-build housing plots. This factor attracts significant weight given the Council's statutory duty to provide sufficient plots. I have taken account of this and the other identified benefits in my deliberations on the appeal.
34. However, I have already found the proposal would not comply with development plan policies in respect of the first main issue. The LP and NP are up to date and the local policies that relate to the design of development and its effect on local character are consistent with the Framework. In such circumstances, planning permission should not be granted unless material considerations indicate the development plan should not be followed.
35. The Inspector for the Sutton in the Elms appeal granted planning permission after attributing considerable weight to the provision of self-build housing plots. However, the Inspector found that scheme would complement the character and appearance of the area. As such, it is different to the current appeal proposal and so I am not bound to arrive at the same conclusion.
36. Other appeal decisions are referred to by the appellant where self-build housing has been allowed but these relate to developments outside the Harborough District and within different contexts. Also, I am advised of a prison that has been granted by the Council as well as housing at Lubenham. None of these other schemes are so similar to the appeal development to set a precedent that must be followed. Therefore, the referred to developments fail to affect my assessment of the appeal scheme.
37. To my mind, the significant harm identified in respect of the first main issue is the overriding factor. The proposal's benefits and other considerations provide insufficient justification to grant planning permission contrary to development plan policies.

Conclusion

38. For the reasons given above, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR