



Appeal Decision

Site visit made on 3 April 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2023

Appeal Ref: APP/A3010/W/22/3303092

Land adjacent to Rose Bank Cottage, Harwell Sluice Lane, Harwell, Doncaster DN10 5BU

- 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 & Mrs M Longworth against the decision of Bassetlaw District Council.
- The application Ref 22/00102/FUL, dated 25 January 2022, was refused by notice dated 22 March 2022.
- The development proposed is the erection of a detached two storey dwelling and renovation of existing garage including new roof.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether the appeal site is an appropriate location for the proposed development, having regard to national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Preliminary Matter – Development Plan Policies

3. The Council is currently preparing a new Local Plan to replace the Bassetlaw Core Strategy ("the BCS"), which was adopted in 2011. The BCS therefore pre-dates the publication of the first National Planning Policy Framework ("the Framework") in 2012. Paragraph 219 of the Framework states that "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of [the] Framework".
4. Policy CS1 of the BCS defines the district's settlement hierarchy. The appeal site is in the small village of Harwell, which falls into the lowest "all other settlements" tier; these are described in the policy as "rural settlements that have limited or no services and facilities or access to public transport and which are unsuitable for growth". Policy CS1 relies in part on the use of settlement boundaries to control development. This is an approach which the Council acknowledges is not supported by the Framework and, as such, it considers that Policy CS1 is out of date. Given that CS1 is more restrictive than the Framework, I agree; any conflict with that policy (though in fact it was not

- referred to in the Council's decision notice) would therefore be afforded limited weight in the overall planning balance.
5. The same consideration would apply to other BCS policies derived from the restrictive "settlement boundary" approach, including CS8 (which addresses rural service centres, including the nearby larger village of Everton) and CS9 (which among other things states that in most circumstances proposals for the development of housing in places categorised as "all other settlements" will not be supported). Again I note that, although these two policies were referred to in the Council's officer report, they did not form part of the reasons for refusal on the decision notice.
 6. The appellants questioned how much weight should be given to conflict with Policy DM4 of the BCS, which addresses matters of design and character and which was referred to in the decision notice. However, no substantive argument, other than the age of the policy, was put forward to demonstrate that it is not consistent with the Framework or otherwise out-of-date. Among other things, in respect of non-major development DM4 requires proposals to be of high-quality design, and respectful of their wider surroundings and context (including development patterns, building and plot sizes and forms, and density). I find Policy DM4 to be consistent with the provisions of the Framework which seek to achieve well-designed places, notably the requirements of paragraph 130. The appellants did not raise any specific concern in respect of Policy DM12 of the BCS, which was also referred to in the decision notice. I give both policies full weight in determining this appeal.
 7. Harwell and the appeal site lie within the parish of Everton. The Everton Neighbourhood Plan ("the ENP") was "made" and became part of the development plan in May 2021. There is no dispute about the status of the ENP, and its policies carry full weight in my determination of this appeal.

Reasons

Character and appearance

8. The appeal site lies towards the northern end of Harwell, a small hamlet close to but physically separate from the nearby village of Everton. It consists of part of the garden at the south side of Rose Bank Cottage, a large single-storey dwelling, and includes its detached garage which is set towards the southern edge of the plot. The proposed development is the erection of a detached two-storey, three-bedroom dwelling, along with the refurbishment of the existing garage for the use of the new dwelling.
9. The proposed dwelling would be constructed using a timber frame and structural insulated panel system, though it would be of a typical and traditional form, with an outer skin of reclaimed facing bricks and a double-gabled pitched roof of blue/black slate. Based on what I saw on my site visit most roofs in the settlement appear to be of orange or brown tiles, although slate is not unknown in the surrounding area. In broad terms therefore, the form and materials proposed would not necessarily be out of place for a dwelling within Harwell; however, it does not follow from this that it would be acceptable in the specific location proposed.
10. Despite its small size Harwell has a definable residential "core", including some dwellings which appeared to me to be of relatively recent construction, in the

area around and between Nutcroft Way and Pinfold Lane. Heading north from here towards the appeal site along the hedgerow-lined Harwell Sluice Lane, there is a distinct change in the form of the hamlet as buildings become much more dispersed. There is a considerable gap between Lawnwood (at the corner of Pinfold Lane) and the next dwelling, Wagtail Way, after which the road drops gently with the falling land, and Harwell's remaining dwellings (Rock Cottage and Carr Hill Farm on the west side of the lane, and Lark Rise and Rose Bank Cottage on the east) are distributed sporadically. Beyond Rose Bank Cottage and the last of Carr Hill Farm's sheds and outbuildings, the lane continues across open fields. The appeal site is therefore in a place where the open and rural nature of the area around Harwell has begun to reassert itself over the relatively more developed form of the core of the settlement; this gives the area a very spacious semi-rural appearance, which is an attractive and positive characteristic.

11. Although the site is (and would continue to be) screened to some extent by surrounding hedgerows, the height of the proposed house, as well as the falling topography of Harwell Sluice Lane, mean that it would be a very visible addition to the area. While the development would be of a scale which would be unlikely to change the nature of Harwell as a whole to "suburban", the introduction of a substantial dwelling into the particular location proposed would lead to an erosion of the sense of spaciousness and the loose knit-semi-rural character which, among other things, is derived from the considerable separation between neighbouring dwellings in this part of the hamlet.
12. The appellants referred to the "character areas" of the ENP, though these are defined and described only for the village of Everton itself; while the plan covers Harwell it does not include a character assessment of the hamlet (beyond describing it on a map key¹ as "low density piecemeal development"). The appellants have mistakenly identified ENP character area 9 – "Sluice Lane" – as including the appeal site; in fact it refers to a built area on Everton Sluice Lane, which runs northwards from the centre of Everton, rather than to Harwell Sluice Lane. The ENP *does* refer to landscape character areas², linking to the [District] Council's 2009 Landscape Character Assessment which identifies the appeal site as being in "Idle Lowlands" zone IL04³. The ENP summarises the strategic approach for the IL04 zone as being to conserve existing landscape features and to reinforce the rural character of the area. However, for the reasons I have just set out, I do not consider that this would be achieved by the development of a large two-storey dwelling which would have the effect of making the area immediately around it feel less open and less [semi-] rural.
13. I conclude that the proposed development would be harmful to the character and appearance of the area. It would therefore conflict with Policy DM4 of the BCS, the principal requirements of which I have summarised in paragraph 6 above. Although I note that Everton Parish Council did not object to the proposed development, I nevertheless also find that there would be conflict with Policy E8 of the ENP which, while broadly supportive of small-scale housing development within the parish, also requires it to relate well to its immediate local context. There would also be conflict with the provisions of paragraph 130 of the Framework, which requires development to be

¹ ENP Map 11 – Everton Character Areas (p41)

² ENP Map 3 – Landscape Character Areas (p17)

³ It appears that the appellant may have misinterpreted the key map in the ENP which shows the dividing line between areas IL03 and IL04 running immediately north of Rose Bank Cottage

sympathetic to local character, including the surrounding built environment and landscape setting.

Flood risk

14. The Environment Agency Flood Map for Planning shows that the appeal site lies within Flood Zone 2, and so is at medium (1 in 100 to 1 in 1,000 years) risk of flooding from (in this case) rivers. Paragraph 159 of the Framework indicates that “inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk”, while the Planning Practice Guidance (“the PPG”) clarifies that “areas at risk of flooding” principally means land within Flood Zones 2 and 3⁴.
15. Policy DM12 of the BCS states that proposals for development in Flood Zones 2, 3a and 3b “that are not defined by national planning guidance as being suitable for these zones will not be supported while development sites remain available in sequentially superior locations across the District”. Given the age of the BCS the policy pre-dates the introduction of the Framework; the “national planning guidance” to which it directly refers is Planning Policy Statement 25 *Development and Flood Risk Practice Guide* which was withdrawn in 2014. Nevertheless, the effect of the policy is still to apply the sequential approach to development set out in current national planning policy and guidance.
16. The status of the appeal site as lying within Flood Zone 2 is confirmed by the site-specific Flood Risk Assessment Report⁵ (“FRA”) and Planning Support Statement (“PSS”) which accompanied the planning application (notwithstanding that the PSS and the appellants’ appeal statement emphasised that the site is at “the very edge” of Zone 2). The PSS sets out how the sequential test has been approached, and states that there were “in-depth” investigations of estate agents, the internet, the Council’s register, and drive-through area visits. However, although the appellants assert that this covered a 15-mile radius, the PSS states that only 14 named towns and villages⁶ were considered, within which 10 sites were identified and (for a variety of reasons) none considered suitable. No substantive evidence has been put forward to demonstrate why the search should have been limited to those 14 particular settlements.
17. While it does not allocate housing sites, the ENP takes a supportive approach to infill development and small-scale housing schemes within the parish, though in line with national policy this is subject to the application of the sequential test for flood risk. I also note that the Council considers it can demonstrate a 12.7 year supply of housing land across the district as a whole. It seems to me that, in limiting the search to a small number of selected settlements and concluding that there are no available sites which are sequentially-preferable to the garden of the appellants’ own existing house, the approach reflects personal preferences rather than the genuine absence of other realistic options within the ostensible area of search. I am not therefore satisfied that the sequential test requirements set out in local and national planning policy have been met.

⁴ Paragraph: 001 Reference ID: 7-001-20220825

⁵ EWE Associates, Rev.D January 2022

⁶ Harwell, Everton, Bawtry, Scrooby, Beckingham, Walkeringham, Misterton, Clayworth, Gringley-on-the-Hill, Hayton, Claborough, Mattersey, Ranskill and Elkesley

18. It is clear from the appellants' FRA that measures could be taken to make the proposed dwelling flood resistant, including ensuring that the ground floor level would be above the "1 in 1,000 year plus climate change" inundation level of 9.90m above ordnance datum and that, because of the topography of the appeal site and its surroundings, in the event of flooding there would be likely to be safe access and escape routes for future occupiers of the dwelling. However, these considerations do not obviate the requirement for the sequential test to be properly applied.
19. I conclude that it has not been demonstrated that appeal site is an appropriate location for the proposed development and that there are no other sites of lesser flood risk to accommodate the proposal. Accordingly, the proposal conflicts with Policy DM12 of the BCS and with Policy E8 of the ENP which seek to steer new development away from those areas at highest risk of flooding. For the same reasons, there would also be conflict with the provisions of paragraphs 161 and 162 of the Framework.

Other Matters

20. The appellants have drawn my attention to the fact that the Council's officer report indicated that residential development of the appeal site would be considered acceptable in principle. As it is a site within a settlement and would be between two existing dwellings, and as I have set out above, I do not disagree. However, the "in principle" support in the Council's report is heavily caveated by the need to comply with other relevant local and national planning policies, and I have found conflict as described.
21. The proposal is for a net zero carbon dwelling. It would incorporate modern technologies such as an air source heat pump and solar photovoltaic systems; these are measures to be welcomed in housing development, though whether they are as innovative as the appellants are keen to stress is perhaps a moot point. Nevertheless, the appellants have referred to paragraph 80 of the Framework which seeks to avoid the development of isolated homes in the countryside other than in certain limited circumstances. The location of the appeal site within the settlement of Harwell means that it would not, in my view, be "isolated" in the Framework's terms. In any case, and as I have outlined above, even if I were to accept that the design of the dwelling were "truly outstanding, reflecting the highest standards in architecture", for the reasons I have set out in addressing the first main issue above I have found that it would not be sufficiently sensitive to the defining characteristics of the immediate sparsely-developed and semi-rural setting.
22. The proposed development would not be likely to have unacceptable harmful impacts on living conditions for occupiers of the existing surrounding dwellings, nor on the safe functioning of the local highway network. These are neutral matters in the overall planning balance.

Planning Balance and Conclusion

23. I have found that the proposed development would be harmful to the character and appearance of the area, and would not comply with national or local planning policy in respect of flood risk. It would therefore conflict with the development plan taken as a whole.

24. Paragraph 11(d) of the Framework states that “where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date”, planning permission should be granted “unless (i) “the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed”, or (ii) “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
25. In this case the main parties agreed that, as some policies of the BCS are out-of-date, the “tilted balance” set out in paragraph 11(d) of the Framework should be engaged. As I have set out in paragraphs 6 and 15 of this decision, those BCS policies which are most important in determining this appeal appear to me to be consistent with the Framework. However, even if I accept entirely that the most relevant policies are out of date, footnote 7 of the Framework states that areas at risk of flooding are one of the “protected areas” described in paragraph 11(d)(i). In this case, the risk from flooding provides a clear reason for refusing the proposed development, and the “tilted balance” is therefore not engaged.
26. The Government’s objective is to significantly boost the supply of housing and the proposal would provide a modern home within Harwell, with a reasonable degree of access to some services within nearby Everton. I acknowledge that the proposed dwelling would incorporate various features and technologies designed to reduce its environmental impact. It would provide modest financial benefits during construction and occupation, and potentially lifetime accommodation for the appellants. However, given the very small scale of the proposal, any economic, social and environmental benefits arising from the scheme would be limited, and would not outweigh the other harm I have found.
27. The proposal would conflict with the development plan taken as a whole. There are no material considerations, including those of the Framework, which indicate that the decision should be made other than in accordance with the development plan.
28. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector