



Appeal Decision

Site visit made on 25 July 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/Y2430/W/23/3317002

Land adjacent to 36 Main Road, Kirby Bellars, Melton Mowbray LE14 2DU

- 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 Richard Ogleby against the decision of Melton Borough Council.
 - The application Ref 21/00836/FUL, dated 9 July 2021, was refused by notice dated 26 October 2022.
 - The development proposed is described as a “full planning application for the re-siting of 3 approved dwellings (17/01312/FUL) and the delivery of an additional 3 bedroom dwelling”.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal site would be a suitable location for the development having regard to the development plan.

Reasons

3. The development strategy for the Borough is contained within Policy SS2 of the Melton Borough Local Plan 2018 (LP). The strategy establishes a settlement hierarchy, which identifies Melton Mowbray Main Urban Area as the priority location for growth, to accommodate approximately 65% of the Borough’s housing Need. Service Centres and Rural Hubs will accommodate the remaining housing development on a proportionate basis.
4. Within the LP, Kirby Bellars is classed as a Rural Settlement, which is a classification that covers small villages and hamlets in the Borough. The supporting text to LP Policy SS2 describes such settlements as small villages or hamlets that have little or no local services and where residents are entirely dependent upon travelling to a nearby settlement or town or city for work, recreation and service provision.
5. To help address a proportion of the Borough’s housing need, windfall sites are supported by the LP in and adjacent to Service Centres, Rural Hubs and Rural Settlements subject to the criteria contained within policy SS3. Outside of these settlements lies the open countryside where new development is strictly controlled.
6. There is no defined settlement boundary around Kirby Bellars. Development along Main Street towards Station Lane and beyond, including dwellings and the Flying Childers public house becomes more sporadic, providing a transition between the built-up area of Kirby Bellars and the open countryside. The

appeal site is separated from the settlement of Kirby Bellars by 36 Main Street and a grassed field. The field provides a significant open break and as a result, the appeal site therefore lies outside of the built settlement, within the countryside.

7. Paragraph 79 of the National Planning Policy Framework (the Framework) states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 80 of the Framework supports the provision of isolated homes in the countryside against a closed list of exceptions. However, the appeal site lies a short distance from Kirby Bellars. It is accessible on foot along a relatively wide footpath, which is served by street lighting. Furthermore, there are bus stops serving a high frequency bus service within close proximity, which would provide future occupants an alternative form of travel other than the private car. Therefore, the appeal site is not isolated in the context of paragraph 80 of the Framework.
8. LP Policy SS3 states, amongst other things, that planning permission will be granted for new residential development in the rural area within or on the edge of existing settlements, provided it is in keeping with the scale and character of the host settlement and subject certain criteria. There is disagreement between the two parties in respect of criteria 1 and 3 of LP Policy SS3.
9. Criteria 1 of LP Policy SS3 requires, among other things, the development provides housing which meets a proven local need, as identified by substantive evidence. The Council state that that there is no identified shortfall of self-build plots within the either the ward in which the site lies or the wider Borough. I understand that there is a demonstrable local need for self-build accommodation within Kirby Bellars, however no substantive evidence has been submitted which identifies the extent of this need. The proposal is therefore contrary to criteria 1 of LP Policy SS3.
10. Criteria 3 of LP Policy SS3 requires, amongst other things, the development to be served by sustainable infrastructure, or provide new infrastructure or services to the wider benefit of the settlement. A new footway linking the site with Station Lane is proposed, although this reflects that approved under the previous planning permission ref: 17/1312/FUL on the site and would benefit future occupants of the development only. Notwithstanding there was no specific request from the Council, no new infrastructure or services to benefit the wider community are proposed. The proposal is therefore contrary to criteria 4 of LP Policy SS3.
11. Although I have found the dwelling would not be isolated in the context of paragraph 80 of the Framework, this does not mean that one additional new market dwelling which would be detached from the settlement edge of Kirby Bellars and in the countryside would be necessary or appropriate.
12. For the reasons outlined above, I conclude that the appeal site is not in a suitable location for the development having regard to the development plan. As a result, the proposed development would conflict with LP Policies SS2 and SS3, as set out above. It would also conflict with the Framework, which seeks to promote sustainable development in rural areas.

Other matters

13. LP Policy C8 states, amongst other things, that in locations within or adjacent to the built form of settlements and those in keeping with the surrounding area, self-build proposals for community schemes will be particularly supported. As established above, the appeal site is not adjacent to the settlement of Kirby Bellars, due to the intervening field.
14. Notwithstanding this, the proposed development is a self-build project and would allow the appellant's family to build their own homes in Kirby Bellars, thereby maintaining existing family and professional connections. I understand that there are no suitable plots beyond the appellant's own land available for self-build in Kirby Bellars. Although the appeal site is locationally closer to Kirby Bellars, that Frisby on the Wreake, the ward in which it is sited, I understand that there is no identified shortfall of self-build plots within the wider Borough. No substantive evidence has been provided to demonstrate otherwise. Notwithstanding this, the provision of four dwellings as a self-build project would be a benefit of the scheme, which is afforded moderate weight.
15. Planning permission (ref: 17/01312/FUL) has previously been granted for three dwellings at the appeal site and is extant. Given the previous planning permission on the site has been implemented there is a real prospect that the fallback position would be implemented. However, I understand the primary justification for allowing the extant permission related to exceptional circumstances surrounding the cessation of a neighbouring use. While noting this previous permission is a realistic fallback, the proposed development is of a different scale and form to the previously approved scheme. The neighbouring use has since ceased and is no longer a consideration that can be weighed in favour of the appeal proposal, which seeks to provide a net gain of one additional dwelling. I therefore accord this matter moderate weight in making this decision.

Planning Balance and Conclusion

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications should be made in accordance with the development plan unless material considerations indicate otherwise. In this case, the provision of four dwellings, resulting in a net gain of one dwelling when considered against planning permission ref: 17/01312/FUL, in this location, outside any named settlement, would be contrary to LP Policies SS2 and SS3.
17. The benefits of the scheme are limited, having regard to the modest amount of development proposed, and not sufficient therefore to overcome the harm identified. Overall, the harm resulting from the development and the conflict with the development plan policies outweigh the benefits. The proposal would fail to accord with the development plan taken as a whole and the other material considerations do not suggest the decision should be made other than in accordance with the development plan.
18. Therefore, for the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

S Pearce INSPECTOR