



Appeal Decision

Site visit made on 11 July 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st September 2023

Appeal Ref: APP/X2410/W/23/3316940

Land adj 18 Seagrave Road, Thrussington, Leicestershire LE7 4UG

- 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 A Askey and Mrs E Johnson against the decision of Charnwood Borough Council.
 - The application Ref P/21/0715/2, dated 28 March 2021, was refused by notice dated 23 December 2022.
 - The development proposed is the construction of a new two-storey dwelling on land that formally comprised part of the garden to 18 Seagrave Rd.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both main parties have referred to the Pre-submission Draft July 2021 Charnwood Local Plan 2021-37 (the Draft LP). The Examination process has begun; however, further consultation was required by the Examining Inspectors, and this is yet to be carried out. The Council has provided a detailed update on the weight it considers should be attributed to each of the draft policies and the appellants have responded.
3. Although the plan has been examined, I cannot be certain when the Plan is likely to be adopted or if any policies are to be modified. Furthermore, the appellants have referred to an unresolved objection to the settlement boundary for Thrussington, which concerns the appeal site. I have taken this information into account in my decision, and I have explained the weight to be afforded to the Draft LP policies where I have considered them.

Main Issues

4. The main issues are:
 - whether or not the proposed development would provide a suitable location for housing, having regard to the development strategy and the character and appearance of the area; and
 - whether or not the proposed development would preserve or enhance the character or appearance of the Thrussington Conservation Area.

Reasons

Suitability of location

5. Thrussington is defined in Policy CS1 of the Charnwood Local Plan Core Strategy, 2015, (CS) as an 'Other Settlement' where new homes would be supported within the settlement boundary. The settlement boundary for Thrussington is shown in the Borough of Charnwood Local Plan Written Statement, 2004 (LP) and the Thrussington Neighbourhood Plan Referendum Document 2018 (NP)¹. The appeal site adjoins the boundary of the settlement as identified in these Plans but is located beyond it and, therefore, falls within land that, in planning terms, should be considered as countryside.
6. In such a location, Policies ST/2, CT/1 and CT/2 of the LP seek to strictly control new development which would only be granted where it would meet one of four criteria. The proposal, for a single open market dwelling, would not meet any of the exceptions listed in Policy CT/1 of the LP and would therefore be contrary to the LP and the development strategy for the area.
7. Thrussington continues to be defined as an 'Other Settlement' within the Draft LP with two allocated housing sites set out in Policy DS3. All of the 'Other Settlements' are acknowledged within the policy as having some of the services and facilities to meet the day to day needs of residents. The site continues to lie outside the settlement boundary for Thrussington, although an earlier draft proposals map did show it within the proposed settlement boundary. In response to the appeal site being identified outside the settlement, in the latest version of the Draft LP, the appellants have objected to the settlement boundary and argue that the site should be within the boundary. As such there is an unresolved objection to the settlement boundary of the Draft LP and, therefore, in this case limited weight can be afforded to Policies DS1, OS1 and C1 of the Draft LP, which concern the spatial strategy for the distribution of development across the plan area.
8. Notwithstanding the limited weight to be afforded to these Draft LP policies, the proposal would result in development outside the proposed settlement boundary and would, therefore, be contrary to the emerging strategy for the location of an open market dwelling.
9. The appeal site comprises a parcel of land which, at the time of my visit, was significantly overgrown. A public footpath runs down the side of the site and from which walkers can appreciate the change in land levels within the site. From the roadside the land slopes down to the brook which runs along the rear edge of the site. At the present time the frontage of the site is bordered by an overgrown hedge. Between Seagrave Road and Old Gate Road is a field enclosed part by hedge and part by fence and this provides an element of verdant setting to the front surroundings of the appeal site.
10. Brook Barn, although presently largely obscured from the road by the roadside hedge, appears to be a commercial office building which has consent for conversion to residential use. At the time of my visit Brook Barn appeared not to have been converted to residential use and the roadside hedge along the front of both the site and Brook Barn had been allowed to grow up quite high. The frontage of the appeal site visually merges with the hedge along the

¹ While I have been sent a referendum version of the Neighbourhood Plan, I have no clear reason to believe that it is not the same as the made version.

frontage of Brook Barn and then with the hedge continuing along the road, away from the settlement. For these reasons, the appearance of the frontage of the appeal site has a greater affinity with the countryside along this section of the road than the immediately adjoining built form of the settlement.

11. However, if the hedge outside Brook Barn were to be lowered, as the evidence indicates it was in the past, and the building converted, the appeal dwelling would be positioned between the residential form of Brook Barn and dwelling on the other side, within the settlement. In plan form the site is already positioned between these buildings, although it is not visually obvious from the road. Even if the works at Brook Barn did not take place, if the hedge along the frontage of the appeal site were to be lowered the site would not then appear especially separated from the settlement.
12. In these circumstances, the proposed development would have a greater association with the built form of the settlement than the countryside beyond. As such, although one dwelling on the appeal site would be contrary to the policies listed above, it would not result in encroachment into the countryside, and neither would it result in an isolated dwelling in the countryside.
13. The immediate vicinity of the appeal site, beyond the junction with Old Gate Road, is characterised by some housing set back from the road, landscaped gaps between the properties and gardens and driveways to the front and side. There are garden walls set directly to the back of the footway, however the houses around the site are set further back from the road.
14. The appeal proposal would result in the development of one dwelling on the site. The height of the proposed dwelling, at only one and a half storeys in height, would be of modest size. Furthermore, the design of the dwelling has taken references from other houses in the settlement with small windows, pitched roof and a chimney. The design, in itself, is not objectionable and, in my judgement the scale and height are appropriate for the site and context.
15. However, the proposed dwelling would be situated close to the front of the site, but not immediately at the back of the pavement, nor set well back within the site to provide a spaciousness at the front. Although the roadside hedge could be retained and the rear garden is proportionate to the size of the dwelling, the position of the dwelling, forward of Brook Barn, would have an awkward relationship with the road and the immediate houses. The position of the building would be out of keeping with the context and appearance of this edge of the settlement.
16. I acknowledge that the main part of the settlement is tight-knit and with enclosed streets. However, the appeal property would also not replicate that form of development and would be detached from the historic core of the settlement by the garden of the adjacent property and the footpath. The appeal site is beyond the tighter, built-up, historic core of the settlement, and on the edge of the countryside beyond.
17. That there are houses to the rear and side of the site and new development being constructed on the opposite side of Old Gate Road would not reduce the harm from the proposed position of the new dwelling on the appeal site. The proposal would not result in an appropriate development in regard to its position within the site and the relationship with Brook Barn and the wider section of this part of the settlement as it transitions to open countryside.

18. The development on Old Gate Road, albeit on higher ground, is clearly not comparable as, contrary to the appellants' assertion, it is being built within the settlement boundary. Moreover, the replacement dwelling is set in a similar position to the dwelling which it replaces, and the new dwellings are set further back, taking account of the transition to the countryside beyond. The Old Gate Road development generally respects and enhances the character of the immediate area. For the reasons I have explained in relation to the position of the dwelling within the site, the appeal proposal would be out of keeping with, and therefore harmful to, the character and appearance of the area.
19. Drawing these matters together, I conclude that the proposal would not provide a suitable location for housing because it would be located beyond the settlement boundary, having regard to the development strategy for the area and, in addition, it would harm the character and appearance of the area. The proposal would, therefore, be contrary to Policies CS2 and CS11 of the CS and Policies ST/2, CT/1 and CT/2 of the LP which, taken together, seek to restrict development in the rural areas and require development to be of a high quality, make a positive contribution, respond positively to context, respect the character of the area, including layout, and reinforce a sense of place.
20. For the same reasons the appeal proposal would also fail to comply with Policy EV1 of the LP and Policies DS5 and EV1 of the Draft LP which, amongst other matters, seek to ensure a high standard of design which respects and enhances the local environment, is compatible with neighbouring buildings and spaces and provides positive and attractive building frontages.
21. The appellants have sought to argue that limited weight should be given to any of the Draft LP policies due to outstanding objections. However, the Council advise that Policies EV1 and DS5 have no unresolved objections and therefore can be afforded moderate weight. In my judgement, given the uncertainty over the adoption of the Draft LP these policies should afford only limited weight. However, Policies EV1 and DS5 of the Draft LP are not substantially different to Policies CS2 and CS11 of the CS. As such the Draft LP policies are unlikely to materially change the approach of the adopted development plan insofar as it relates to my consideration of the effect on the character and appearance of the area.
22. The scheme would not comply with Policies S1, H1, D1 and D2 of the NP which require all new residential development to be, where appropriate, within the settlement boundary and in accordance with other criteria and which, amongst other matters, aims to ensure development is of a high-quality design which complements local character and is contextually responsive.

Conservation Area

23. The appeal site lies within the Thrussington Conservation Area (the Conservation Area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides, at section 72(1), that with respect to any buildings or other land, in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.
24. An understanding of the importance of the Conservation Area is supported by the Thrussington Conservation Area Character Appraisal, March 2013 (CA) which details the historic development of the settlement and the characteristics

which are of special architectural or historic interest. In so far as it is relevant to the appeal, I consider that the significance of the Conservation Area is mainly derived from the planned nature of the settlement with tight, enclosed, streets leading out from the green, which acts as a central space and historic core, and the clear distinction between the built development and the countryside beyond which contributes positively to the character and appearance of the Conservation Area as a whole. The site currently contributes positively to the significance of the Conservation Area by reason of being a green gap at the edge of the main built form and the countryside further along the road.

25. I have already found that the proposed development, due to its position within the site, would not respect or replicate the built form of the part of the settlement around the site. For the same reason, the development would cause harm to the Thrussington Conservation Area, detracting from the significance of this designated heritage asset.
26. The development at Old Gate Road noted by the appellants has some material differences to the scheme before me. The Old Gate Road site was a redevelopment proposal and is both within the development boundary and outside the Conservation Area. As such the Conservation Area issues are not the same as with the appeal site before me. Furthermore, each scheme should, in any case, be considered on its own merits.
27. For the above reasons I find that the proposal would fail to preserve or enhance the character or appearance of the Thrussington Conservation Area. It, therefore, follows that the proposal would be contrary to Policy CS14 of the CS which seeks to conserve, enhance, and protect heritage assets.
28. For the same reasons, the scheme would not comply with Policy D1 of the NP which requires all new development to protect, preserve and enhance the Conservation Area and other heritage assets.
29. The appeal proposal would also conflict with Policy EV8 of the Draft LP which seeks to protect and enhance heritage assets and prevent harm to their setting. The Council advise that Policy EV8 is largely uncontested and therefore can be afforded moderate weight. In any case, Policy EV8 of the Draft LP is not substantially different to Policy CS14 of the CS. Consequently, it would not materially change the approach of the adopted development plan insofar as it relates to this main issue and, for these reasons, I have given it moderate weight in my decision.
30. The proposal would also not align with paragraph 206 of the National Planning Policy Framework (the Framework) which aims for new development within Conservation Areas to enhance or better reveal their significance and preserve those elements of the setting that make a positive contribution.
31. The harm to the Conservation Area as a whole would be less than substantial within the meaning of paragraph 202 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.
32. The development would provide an additional dwelling with the associated social and economic benefits both during and post construction. It would also accord with the Framework aim to boost the supply of housing and support the

rural economy. The dwelling would be constructed with a number of sustainable design features, such as solar panels, rainwater harvesting and with a timber frame. The site would be located so that occupants of the appeal dwelling would have access to the services and facilities of the settlement by foot or bicycle and therefore there would not be a dependence on the private vehicle for all journeys. Furthermore, the development would make efficient use of the site which it is understood has lain vacant for some years. The works could be undertaken by a small builder, could add a dwelling to the stock reasonably quickly and would add to the mix of the housing stock in the area. However, as only one dwelling would be provided, even in an area where the Council is unable to demonstrate a Framework compliant supply of housing land, I attach limited weight to the public benefits of an additional single dwelling.

33. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. The public benefits of the proposal afford limited weight and, therefore, would not outweigh the harm to the CA and its significance, which in accordance with the Framework, is required to be attributed great weight.

Other Matters

34. I have taken into account all the representations that have been received, including the letter in support of the scheme which reflects the benefits which would accrue from the addition of a dwelling in this location.

Planning Balance

35. The appeal proposal would be contrary to policies that seek to direct the location of development, in accordance with the spatial strategy, and would harm the character and appearance of the area, including the Conservation Area. I consider that the harm and policy conflict would be such that the proposal would conflict with the development plan as a whole. This is a matter to which I attach substantial weight.
36. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing land. Its latest information is a supply of only 4.27 years, which is a reasonably substantial short fall, although this figure is not agreed by the appellant.
37. Paragraph 11d of the Framework sets out the presumption in favour of sustainable development. This includes, in summary, that where the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The policies referred to in this part of the Framework are set out in footnote 7 and include designated heritage assets.
38. In this case, I have found that the harm to the significance of the Conservation Area, a designated heritage asset, would not be outweighed by the public benefits and this provides a clear reason for refusing the proposal. Consequently, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework does not apply in this case.

39. That there are no refusal reasons relating to living conditions of existing or proposed occupiers, highway safety, biodiversity, or drainage matters are considered to be neutral factors in the overall considerations. The benefits of the scheme merit limited weight and this would be outweighed by the harm and policy conflict which I have found should be attributed substantial weight.

Conclusion

40. For the reasons given above I have found that the proposal would be contrary to the development plan as a whole, including the Neighbourhood Plan and the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Townend

INSPECTOR