



Appeal Decision

Site visit made on 15 August 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2023

Appeal Ref: APP/P3040/W/23/3316967

**Hillcrest Workshops, Melton Road, Nottinghamshire, Stanton on the Wolds
NG12 5PJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr J Banks of Melton Road SPV Ltd against Rushcliffe Borough Council.
 - The application Ref 22/01984/FUL, is dated 13 October 2022.
 - The development proposed is for the erection of a detached dwelling.
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Decision

1. The appeal is dismissed and planning permission for the erection of a detached dwelling is refused.

Preliminary Matters and Main Issues

2. This appeal follows the failure of the council to determine the planning application within the prescribed period. Had it been able to determine the application, the Council has indicated that the application would have been refused.
3. I note the reasons for refusal put forward by the Council in their Appeal Statement. While this is not the application decision, as jurisdiction over that was taken away when the appeal was lodged, I have treated it as the decision the Council would have made, had it been empowered to do so.
4. During the appeal process the appellant submitted a Preliminary Ecological Appraisal. This set out the likely potential impacts of the proposal and the mitigation measures required. The Council are content that the proposal would not unacceptably affect protected species, and withdrew this objection. I therefore find it is not necessary to consider this matter further.
5. Therefore, the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether the appeal site is suitable for new housing;
 - The effect of the proposal on the character and appearance of the surrounding area;

- The effect of the proposal on living conditions;
- The effect of the proposal on trees; and,
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

6. Paragraph 147 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
7. Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include limited infilling or the redevelopment or previously developed land where it would not have a greater impact on the openness of the Green Belt than the existing development. Policy 21 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (the LP2, October 2019) relies on the exceptions set out within the Framework.
8. The appeal site forms part of a larger plot that was formerly covered by buildings and areas of hardstanding but has recently been redeveloped for residential dwellings. The appeal site sits to the side of the six new dwellings, and, at the time of my visit, it was primarily covered by bare earth with a shipping container against the boundary with plot 6. Whilst I am mindful of the shipping container, I have no evidence before me to demonstrate that it is permanent. Paragraph 149(g) excludes temporary structures and so this container has not been determinative in my considerations.
9. Given the history of the site, I consider it to be previously developed land, and I note that the Council found similarly. To this extent therefore, redevelopment or infilling would not necessarily be inappropriate development subject to there being no greater impact on the openness of the Green Belt than the existing development.
10. Whilst I recognise that there were previously buildings that covered parts of the appeal site, these have been removed. Similarly, no hardstanding was clearly visible at the time of my site visit. I therefore find that the appeal site contributes positively to Green Belt and its openness. Against this, the proposal would result in the erection of one new dwelling with a sizeable driveway and parking area. These would, along with any residential paraphernalia, adversely affect the spatial and visual aspects of the openness of the Green Belt. Cumulatively the proposal would result in a much greater impact on the Green Belt and its openness than the existing development.
11. Even if I were to consider the abovementioned shipping container as a permanent feature, it is a significantly smaller than the proposed development

and is more retiring in views. The proposal would therefore still have a greater impact on the Green Belt and its openness.

12. The proposal would therefore be inappropriate development that does not comply with the exceptions set out above and would therefore conflict with LP2 Policy 21 and Paragraphs 147 to 149 as outlined above.

Whether Suitable for New Housing

13. Policies 1 and 3 of the Rushcliffe Local Plan Part 1: Core Strategy (the LP1, December 2014) and LP2 Paragraph 3.10 set out the Council's spatial strategy for new residential development and their presumption in favour of sustainable development. In particular, residential development is directed to specific named settlements and is only supported in 'other villages' where it consists of limited small-scale infill, exception site development or land allocated through a neighbourhood plan.
14. The proposal is for the erection of one open-market dwelling at the edge of development on land that is not allocated for residential development. As it is also outside of any of the settlements named under LP1 Policy 3 it would not comply with any of the exceptions set out above. The proposal would therefore be contrary to the spatial strategy of the development plan.
15. The appeal site adjoins Stanton on the Wolds, where the appellant states there are services and facilities, including education. However, I cannot be certain, from the information before me, that these would be readily accessible for future occupiers by sustainable means, or that they would meet their typical daily needs. From the information before me I find that future occupiers would be reliant on private motor vehicles to meet their daily needs.
16. Consequently, in light of the above, the appeal site would not be suitable for new residential development as proposed before me as it would conflict with the plan-led approach to the delivery of housing. The proposal therefore conflicts with LP1 Policies 1 and 3, and LP2 Paragraph 3.10 as set out above.

Character and Appearance

17. The appeal site, as outlined above, is an open area of land to the side of a recent development of six dwellings. The proposal would result in one new dwelling of a modern style with a large driveway and parking area. The siting of the dwelling at the end of the existing row would largely follow the crescent formed by the existing dwellings although the dwelling itself would be markedly different in appearance and form.
18. The appeal site side of Melton Road is largely characterised by agricultural fields and wooded areas interspersed with only very sporadic development. The main exception to this is the row of development adjacent to the appeal site. The proposal would further extend this row, increasing the visual and physical presence of the development and eroding the sporadic character of built development on this side of Melton Road. Although to only a small degree, given the scale of the development, the proposal would also harm the rural character of this side of the road through the loss of an otherwise open space.
19. However, the modern design of the proposed dwelling would not be so modern or unique as to be an incongruous feature detrimental to the character of this group of dwellings or the wider area. This is, in part, due to its siting away

from Melton Road, and as it is partially screened by the dwelling at Plot 6. Moreover, and notwithstanding the harm identified above, the siting of the dwelling would respect the form of the crescent and the plot would not appear cramped or otherwise contrived.

20. Nevertheless, given the above, the proposal would unacceptably harm the character and appearance of the wider rural character and conflict with LP1 Policy 10 which seeks, amongst other things, for developments to have regard to the local context and make a positive contribution to the sense of place, such as reinforcing local characteristics.

Living Conditions

21. The appeal site would be located close to the dwelling at Plot 6. This is a two-storey dwelling with, what I understand to be, one habitable window facing the appeal site at the first-floor level. This window has been identified as serving Bedroom 5 by the Council, and the main body of the proposed dwelling would extend in front of it.
22. Although the two properties would be sited close to each other, the roof of the proposed dwelling is set low, reducing the overall height of the dwelling, and slopes away from Plot 6. The low height and slope create a more spacious gap between the properties at the first-floor level and would maintain a good level of light to the window serving Bedroom 5. I find therefore that the living conditions of the occupiers at Plot 6 would not be unacceptably affected by the proposed development.
23. The proposed dwelling would include a number of windows serving habitable rooms, including the living room, dining room and bedrooms, that face the row of leylandii trees. However, although facing the trees, these windows would be set back from them by a substantial distance. I therefore find that there would be no unacceptable loss of natural light to these rooms. Moreover, although the home office window is much closer to the leylandii, as it faces down the garden there would again be no unacceptable loss of natural light as a result of the leylandii. Furthermore, the relationship between the leylandii and the proposed dwelling means that afternoon and evening sunlight would likely be unaffected. Overall, I find that the proposal would not provide a poor level of natural light to the detriment of the living conditions of future occupiers.
24. The proposal would not unacceptably affect the living conditions of neighbouring occupiers and would provide a suitable standard of living conditions for future occupiers with regard to natural light. The proposal would therefore comply with LP1 Policy 10 and LP2 Policy 1 which require, collectively and amongst other matters, that developments do not adversely affect the living conditions of nearby residents and provide suitable amenity for future occupiers. The proposal would also comply with Paragraph 130 of the Framework regarding the provision of a high-standard of amenity and not undermining quality of life.

Trees

25. Other than the side of the site adjoining the existing dwellings, the appeal site is surrounded by mature trees and hedgerows. The appellant has, as part of the appeal process, submitted a Tree Survey and Arboricultural Method Statement by AT2 Tree Surveys. This statement provides additional details as

to the existing trees surrounding the site, and the likely potential impact of the development on them. Although this statement has allayed some of the Council's concerns, they are still concerned that the long-term retention and future management of the trees have not been demonstrated.

26. Although not all of the leylandii in the row are plotted, I find that the positioning of the row as a whole, and the plotting of those trees closest to the development, are sufficient in this case. In particular, I find that the submission is sufficient to demonstrate that a suitable root protection area can be set out for all of the retained trees.
27. Given my findings above regarding the living conditions of future occupiers, I find that the proposal would not put any undue pressure on the row of leylandii to be significantly cut or felled. Nevertheless, from the information before me it also appears that the trees are not protected and could, therefore, be felled or otherwise reduced already. Therefore, whilst the appellant may not have provided a management plan, I do not find that the proposal would change the status of the trees or their long-term risk from works.
28. The proposed development would not result in an unacceptable risk to the long-term retention of trees on and around the appeal site. It would therefore comply with LP2 Policy 37 which requires developments to avoid adverse impacts on mature trees.

Other Considerations

29. The appellant has raised that the adjacent houses built under the recent permission could carry out extensions under permitted development rights. They suggest that they would be happy to remove these rights, through a covenant, if this was needed to make the proposed dwelling acceptable. However, it is not clear what permitted development rights are available to these dwellings, or that there would be any more than a theoretical potential for such works to be carried out. Moreover, no mechanism has been provided to remove the permitted development rights at the adjoining properties.
30. I recognise that the proposal would include an energy efficient design and a sedum roof that would reduce water and energy wastage. I note that this may also provide a space for biodiversity at the site. However, I do not find these matters to be benefits when compared against the site as it currently exists. Moreover, although the proposal would not result in any harm to trees or living conditions, a lack of harm is not a benefit in itself. Consequently, I can only attribute neutral weight to these matters.

Green Belt Conclusion

31. The proposal would amount to inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. Further harm would also occur, through the siting of the proposal contrary to the Council's spatial strategy, and its impact on the character and appearance of the surrounding area. These matters carry substantial weight. I have attached at most neutral weight to the consideration in support of the proposal. I conclude therefore, that these considerations do not clearly outweigh the harm to the Green Belt.

32. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with the Green Belt aims of LP2 Policy 21 and the Framework as outlined above.

Other Matters

33. The appellant has directed my attention to an appeal with the reference 3229372, near to the appeal site. However, I have not been provided with a copy of the appeal decision or any related documents. Nevertheless, the appeal before me does not turn upon whether the site is within a settlement and so I consider this example to not be directly relevant. Consequently, this example has not been determinative in my considerations.

Conclusion

34. As outlined above, the other considerations raised would not outweigh the harm to the Green Belt. Therefore, the proposal would conflict with the development plan. There are no other considerations, including the Framework, that outweigh this conflict. As such, for the reasons given above I conclude that the appeal should be dismissed.

Samuel Watson

INSPECTOR