



Appeal Decision

Site visit made on 1 November 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2023

Appeal Ref: APP/K2420/W/23/3316041

Land off Bagworth Road, Barlestone, Leicestershire CV13 0EG

- 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 Land Allocation Ltd against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 21/00460/OUT, dated 23 March 2021, was refused by notice dated 15 September 2022.
 - The development proposed is residential development for up to 50 dwellings, including access, with all other matters reserved.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Land Allocation Ltd against Hinckley and Bosworth Borough Council. This is the subject of a separate decision.

Preliminary Matters

3. The appeal scheme is for outline planning permission with detailed approval sought for access. Matters relating to layout, scale, appearance and landscaping are reserved for future approval. Therefore I have treated any such details submitted with the application, including on the application plans, as indicative.
4. The Council are in the process of reviewing the Local Plan to cover the period 2020 to 2039. However, the evidence before me indicates it is not anticipated for adoption until at least 2025. Therefore, I afford limited weight to the emerging Local Plan.

Main Issues

5. The main issues are:
 - whether the appeal site would be a suitable location for the development with regard to local and national planning policies and accessibility;
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on highway safety, with regard to the local road network; and
 - whether the development would make adequate provision towards community amenities, facilities and services, including affordable housing.

Reasons

Location

6. The appeal site comprises agricultural land adjacent to the built-up area of Barlestone. It is located beyond the settlement boundary defined in Policy H2 of the Neighbourhood Plan¹ where land is treated as open countryside and any development will be carefully controlled in line with local and national strategy planning policies. This includes Policy DM4 of the SADMP² which protects the countryside by safeguarding it from what the Council considers to be unsustainable development. Sustainable development, for the purposes of the first part of Policy DM4 of the SADMP, comprises five types or forms of development. None of these include open-market homes which form part of the development proposed in this case.
7. Given its range of shops, services and facilities that support daily needs, Barlestone is identified as a Stand Alone Key Rural Centre within Policy 11 of the Core Strategy³. Through the allocation of land for a minimum of 40 new homes in Barlestone, Policy 11 also supports local services and the maintenance of the rural population level. This is broadly consistent with paragraph 79 of the Framework⁴ which states that housing should be located where it will enhance or maintain the vitality of rural communities.
8. Although not within the immediate surroundings of the site, within a 10-minute walking distance⁵, a range of services, facilities and bus stops are located. Whilst the Department for Transport's Manual for Streets (MfS) identifies that walkable neighbourhoods are typically characterised by having a range of facilities within a 10-minute walk, it also recognises that this is not an upper limit. Furthermore, walking offers the greatest potential to replace short car trips. In the case of Barlestone, there are further facilities within 15 minutes walking distance of the site, which the Institute of Highways and Transportation⁶ deems to be acceptable. Despite the lack of a supermarket in Barlestone, I conclude that the settlement is capable of supporting the daily needs of its residents.
9. Access from the development to the shops, services and facilities would be possible via the existing pavements present alongside at least one side of Bagworth Road and the network of other local roads within the settlement. The development would incorporate pavements to both sides of the access road and the widening of specific sections of existing pavements alongside Bagworth Road. The nearby bus stops are on routes which connect to other settlements in the area, including Leicester, Market Bosworth, Hinckley, Coalville and many larger villages in between. These routes provide hourly service during peak times on weekdays and Saturdays, enabling access to employment, education, shops and other facilities further afield.
10. I conclude that the appeal site would be a suitable location for the development with regard to accessibility. However, it would be a suitable location with regard to local and national planning policies. It would conflict with Policy DM4

¹ Barlestone Neighbourhood Plan (the Neighbourhood Plan)

² Local Plan 2006-2026: Site Allocations and Development Management Policies DPD (the SADMP)

³ Local Development Framework: Core Strategy (the Core Strategy)

⁴ National Planning Policy Framework (the Framework)

⁵ As confirmed by the Transport Statement submitted with the application, Ref: S11371-NE-66-XX-RP-T-1001 prepared by Newell Edwards, dated 26 February 2021

⁶ Guidelines for Providing Journeys on Foot (2000)

of the SADMP which permits specific types of development within the open countryside. Given the site's location outside the settlement boundary and the development's conflict with Policy DM4, I also find conflict with Policy H2 of the Neighbourhood Plan which seeks to carefully control development in the countryside.

Character and appearance

11. The appeal site is located within the Charnwood Fringe Settled Forest Hills Landscape Character Area in the Council's Landscape Character Assessment⁷ (the LCA). This is characterised by a gently undulating landform with plateaus of higher ground and small fields around settlements enclosed by hedgerows and scattered trees. These characteristics are reflected on and surrounding the appeal site given the topography gently rises as Bagworth Road travels out of the settlement before the open countryside plateaus. The site itself is largely enclosed by established hedgerows including the occasional tree and divided into smaller areas of flat grazing land. More substantial tree cover is located on either side of the public right of way which runs close to but outside the southern site boundary.
12. The Landscape and Visual Appraisal⁸ (LVIA) submitted with the application does not directly reference the LCA, instead setting out an independent character assessment of the site and a wider study area. Nonetheless, the baseline description of the site and its surroundings in the LVIA broadly reflects the landscape characteristics identified in the LCA.
13. Although existing residential development is positioned close to the appeal site, it does not abut the site boundary, being separated by Bagworth Road and the wooded area associated with the public right of way. Moreover, the appeal site extends further into the open countryside than the row of dwellings on the other side of Bagworth Road and the recently approved Garden Farm⁹ development currently being constructed to the south. Beyond the remaining site boundaries lies open countryside with scattered farmsteads. As a result, although not isolated in the terms set out in paragraph 80 of the Framework, the site is physically separated from the existing settlement with a character strongly influenced by the surrounding open countryside. The lightly trafficked winding route and narrow width of Bagworth Road as it leaves Barlestone contribute to the overall sense of tranquillity experienced on the site and its immediate surroundings. This is further enhanced by the enclosure provided by the existing landscape features and flatness of the appeal site.
14. The development would introduce built form where there is currently none, aside from the existing modestly sized stable area located close to where the public right of way joins Bagworth Road. It would not round off the settlement edge but expand the settlement into the open countryside, altering the baseline landscape and visual conditions of the site and the study area. As acknowledged by the LVIA, this change would be at odds with the landscape character of the site and the development would be perceived from viewpoints in the surrounding area.

⁷ Hinckley and Bosworth Borough Landscape Character Assessment, prepared by LUC, dated September 2017

⁸ Prepared by AAH Planning Consultants, dated April 2021

⁹ Council application ref: 20/00470/FUL

15. The proposed dwellings would be taller than the existing hedgerows, therefore even if all existing landscape features are retained, these would not screen the development from view. This would be particularly apparent in close views of the site from Bagworth Road as it winds towards Barlestone. During my site visit, I observed the rooftops and the upper floors of the existing dwellings close to the proposed access from this location (viewpoint 1B). Whilst the LVIA states the change at viewpoint 1B would be minor to moderate adverse, this downplays the importance of the transition between open fields to settlement. Consequently, the presence of built form on this edge would be in stark contrast to the open, undeveloped countryside.
16. Furthermore, notwithstanding that layout details are reserved, given the proposed retention of the existing hedgerows, the proposed dwellings would be set back from Bagworth Road, behind these landscape features within a proposed green buffer. This is not a characteristic commonplace within the established pattern of development in the area, where dwellings front onto the road and are set back behind individual driveways.
17. The development would also lead to adverse changes to other views, including those from within Barlestone and the various public rights of way that skirt the settlement, through the addition of the proposed built form. However, given that views of the existing buildings are already experienced from these locations, the sensitivity to change is low and therefore the effect of the development would not be significant.
18. Nonetheless, and despite being located outside any statutory or non-statutory landscape designation, the harm to the character and appearance of the area as a result of the development as a whole would be significant.
19. Any proposed planting to screen the development would take time to establish and as such details are reserved for a later date, I cannot conclude with certainty that the planting required to sufficiently screen the development would not, in itself, harm the area's landscape character. The application plans also indicate the provision of a substantial green space along the eastern boundary, linking with the green infrastructure associated with Garden Farm. Similarly, whilst this could soften the edge of the development and define the settlement edge should the aims and objectives¹⁰ of green infrastructure be implemented, these details are illustrative only. Further primary and secondary mitigation measures, alongside standard construction and operational management practices, are set out in the LVIA. However, given the scale of these measures combined with the level of certainty of the proposals, it has not been demonstrated that the measures as a whole would be sufficient to address the identified landscape and visual effects of the development.
20. I conclude that the development would significantly harm the character and appearance of the countryside contrary to Policy DM4 of the SADMP which states development should not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. Although details relating to landscaping, layout, scale and appearance are all reserved matters, the development conflicts with Policy DM10 of the SADMP which will permit development provided it complements or enhances the character of the surrounding area. It would also conflict with Policy H2 of the Neighbourhood Plan which seeks to carefully control development in the

¹⁰ Landscape Sensitivity and Green Infrastructure Study for Leicester and Leicestershire, October 2017

countryside. I also find conflict with paragraph 174 of the Framework which requires decisions to contribute to and enhance the natural and local environment.

Highway safety

21. The development would increase the number of vehicles using the local road network. As calculated as part of the Transport Statement the development would generate 33 vehicle trips during the morning peak hour and 32 trips during the afternoon peak hour. Whilst the Council considers that this increase is significant, paragraph 110 of the Framework states that development should only be refused if there would be an unacceptable impact on highway safety, or the impacts on the road network would be severe.
22. At the local level, Policy TR1 of the Neighbourhood Plan states that new housing development should be designed to minimise additional traffic generation and movement through the settlement. However, no qualification or quantification of this term is provided within the Neighbourhood Plan.
23. The Transport Statement applied trip generation rates agreed by the Highway Authority to baseline traffic flows along Bagworth Road plus the anticipated vehicle trips as a result of other proposed developments nearby¹¹. Given the atypical traffic conditions experienced during the COVID-19 pandemic when the application was being prepared, the baseline flows were informed by the ATC¹² undertaken as part of the Garden Farm development. The Transport Statement concludes that whilst the development would generate additional trips, the overall traffic numbers on the local network would remain low and could be accommodated on the local network given the capacity available. The Highway Authority did not raise any concerns regarding the methodology of and data used within the Transport Statement and no substantive evidence disputing its findings has been provided.
24. Several representations have been made by interested parties regarding the traffic conditions through Barlestone, including along Bagworth Road. These relate to the type and amount of traffic and areas of congestion, particularly where on-street parking is available and that additional vehicle trips would be perceived to adversely impact highway safety. During my site visit, I observed an intermittent flow of traffic along Bagworth Road and the other key routes through the settlement. Whilst narrow with vehicles parked on some sections, traffic was able to move safely along these roads, albeit at low speeds and with drivers giving way to oncoming traffic at times. Furthermore, the evidence before me indicates that there were no reported injury accidents on the main routes close to the appeal site during the 5 years leading up to February 2021¹³. I have no substantive evidence demonstrating that the existing volume of traffic has caused damage to historical buildings in the settlement due to vibrations.
25. The development includes improvements to the carriageway and pavement widths associated with Bagworth Road close to the site access, which would be secured via planning conditions had I been minded to allow the appeal. Combined with the site's proximity to the range of shops, services and facilities

¹¹ Garden Farm and Land South of Cunnery Close developments

¹² Automatic Traffic Count Undertaken 10-16 March 2020

¹³ As evidenced in an email Leicestershire County Council dated 9 February 2021

within Barlestone, future occupiers of the development would have safe and convenient opportunities to undertake short trips by alternative modes of transport to the private car. Furthermore, the supply of Travel Packs and bus passes to future occupiers of the development would promote public transport use and contribute to the objective of minimising additional traffic generation.

26. I conclude that the development would not cause harm to highway safety, with regard to the local road network. It would accord with Policy TR1 of the Neighbourhood Plan by minimising additional traffic generation and movement through Barlestone.

Contributions

27. Where development will create a need to provide additional or improved infrastructure, amenities or facilities, Policy DM3 of the SADMP requires such provision to be made directly or indirectly through the appropriate funding mechanism. Consequently, the Council consider that a planning obligation is required to secure the following:
- Affordable Housing – on-site provision of 40% of the dwellings;
 - Education – contributions towards the improvement, remodelling and enhancement of existing facilities at Market Bosworth School to provide secondary and post-16 education places;
 - Play and open space – on-site provision;
 - Health – contribution towards providing additional GP consulting and multi-function clinic/treatment rooms at the Ibstock & Barlestone Surgeries;
 - Civic Amenity – contribution towards the improvements at the Coalville Recycling and Household Waste Site;
 - Library – contribution towards increasing the book stocks at Newbold Verdon Library;
 - Transport – provision of Travel Packs and Bus Passes for all households and a contribution towards the costs of consultation on a Traffic Regulation Order (TRO) within Barlestone; and
 - Monitoring Costs – contribution towards the County Council's costs of monitoring their obligations.
28. As part of the appeal, the appellant has submitted a signed and certified Unilateral Undertaking (UU), pursuant to Section 106 of the Town and Country Planning Act 1990, dated 13 July 2023. In accordance with paragraph 57 of the Framework, I have considered this obligation against the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, namely whether it is: necessary to make the development acceptable in planning terms; directly related; and fairly and reasonably related in scale and kind to the development.
29. The Affordable Housing obligation accords with Policy 15 of the Core Strategy and Policy H5 of the Neighbourhood Plan, including a 75/25 per cent split between affordable rent/shared ownership. The provision of a percentage of the total number of dwellings and implementation timescales related to the

occupation of the open market housing means it is directly related to the development.

30. The evidence before me indicates that there is capacity within the existing school catchment sufficient to accommodate the primary school-aged future occupiers of the development, despite reference to the contrary made by some interested parties. Therefore, a financial contribution towards primary education would not be necessary. In respect of secondary education, the nearest schools do not have the capacity to accommodate the additional pupils anticipated to occupy the development within this age range. A per-pupil Department for Education cost multiplier has therefore been applied to the anticipated additional pupils to contribute to the improvement, remodelling and enhancement of existing facilities. Although Market Bosworth School is referenced in the obligation, any other school within the locality of the development is also listed. Similarly, a post-16 education cost multiplier has been used. Both contributions have timescales of payment reasonably related to the occupation of the dwellings.
31. The development would include areas of public open space on-site, in accordance with an Open Space Plan to be approved by the Council. The respective obligation in the UU includes implementation timescales for the approval of the Open Space Plan and the provision of the public open space, related to the commencement and occupation of the development. The procedure for the management and maintenance of the public open space is also defined, including in the event it is transferred to a Management Company. As this approach would ensure new green space and play provision meets the standards set out in policies 11 and 19 of the Core Strategy, it is directly related to Barlestone, the site and the proposed development.
32. Turning to the financial contributions in respect of health, civic amenity and library facilities, cost multipliers have been applied per household or per person likely to occupy the development. For each obligation, the contribution amount is therefore directly related to the development and its scale. Concerning healthcare for increases in the local population, the improvement of the GP facilities in Barlestone will be supported by the Council via developer contributions, as set out in Policy 11 of the Core Strategy. In each case, a specific nearby facility has been identified that would be required to absorb the additional demand created by the future occupiers. I find this approach to be fair and reasonable.
33. To promote the use of public transport, specifically bus travel, and achieving modal shift targets and reducing car use the UU includes an obligation to provide a Travel Pack and two adult bus passes to the first occupier of each dwelling. Should the appellant be unable to provide these directly to the occupants, the obligation includes the ability for the contribution to be paid to the County Council instead. As the TRO mitigation scheme contribution relates specifically to Barlestone and the County Council's costs of monitoring concerns the planning obligations associated with the development they are directly and reasonably related to the development.
34. Therefore, I am satisfied that the obligations above are necessary to make the development acceptable in planning terms and are fairly and reasonably related in scale to the development. I conclude that the development would make adequate provision towards community amenities, facilities and services,

including affordable housing, in accordance with Policy DM3 of the SADMP in this respect. It also accords with paragraph 57 of the Framework as the UU meets the appropriate planning obligation tests.

Other Matters

35. The development would provide up to fifty dwellings, including a proportion of affordable housing to meet local needs, in a location suitable to support local services and facilities. Given the level of housing supply the Council can demonstrate, I attach considerable weight to this benefit.
36. It would also provide economic benefits from the direct and indirect provision of jobs during its construction and through supporting local services, facilities and businesses in the longer term. Whilst specific job numbers and estimated spending power of future occupiers of the development have been provided, I have limited substantive evidence justifying these calculations. Regardless, given the scale of the development, these public benefits also attract considerable weight.
37. Given the illustrative nature of the landscape and open space proposals, the specific environmental benefits derived from these features of the development are undefined, including any net gains for biodiversity. Similarly, the contribution the proposed dwellings would make towards carbon savings and the move to a low-carbon economy would be matters reserved for future approval. Therefore, I attach limited weight to these benefits.
38. As Policy 7 of the Core Strategy provides support for housing development within settlement boundaries, it does not weigh in favour of the grant of planning permission for the development.
39. The appellant contends that development would accord with planning policy concerning a range of issues. These include designing out crime, waste, ecology and biodiversity, heritage and archaeology, flood risk and drainage, contamination and ground conditions, air quality, noise and construction impacts, open space and living conditions. Even if I were to conclude this to be the case, this would be a neutral factor in my decision.

Planning Balance

40. The provision of a range of housing for different groups in the community in locations suitable to support services and facilities whilst meeting local needs, including affordable housing, are important aspects of the overarching objectives set out in the Framework. Furthermore, the Framework recognises that the countryside should be protected for its intrinsic character and beauty, and development should be sympathetic to the natural landscape. Policy DM4 of the SADMP seeks to do this by restricting the type of development which could be acceptable. As identified in another appeal¹⁴, given its restrictive list of development types precluded from the countryside, this is not wholly consistent with the Framework.
41. Similarly, the use of a threshold above which harm to the countryside would be unacceptable as set out in Policy DM4 is not consistent with the aim of the Framework to ensure that planning decisions contribute to and enhance the natural and local environment. However, I have found that the development

¹⁴ Appeal ref: APP/K2420/W/21/3284379

would cause significant harm to the character and appearance of the area, to the detriment of its intrinsic value, beauty, open character and landscape character of the open countryside. As the purpose of Policy DM4 is underpinned by the protection of the countryside, the development's conflict with it attracts moderate weight.

42. Given Policy H2 of the Neighbourhood Plan, seeks to carefully control development in the countryside, in line with local and national strategic planning policies, including the Framework, significant weight is also given to the development's conflict with this policy.
43. Policy DM10 of the SADMP stipulates a series of design requirements necessary for a development to be permitted. These reflect the importance of good design which the Framework states is a key aspect of sustainable development. The consistency with the Framework in this respect means I attach significant weight to the development's conflict with Policy DM10.
44. Whilst I have found that the development would not cause harm to highway safety and would make adequate provision towards community amenities, facilities and services, including affordable housing, nevertheless, I conclude that the development conflicts with the development plan as a whole.
45. There is no disagreement between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the Framework. The evidence before me indicates that the latest position comprises 4.89 years of deliverable housing sites. Therefore, paragraph 11dii of the Framework applies and, in the absence of any assets of particular importance¹⁵, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. This approach is replicated in Policy DM1 of the SADMP.
46. The Framework affirms the Government's objective of boosting the supply of homes and therefore, the provision of additional housing in an area where a shortfall in deliverable housing sites exists would be a public benefit. Whilst acknowledging that the five-year supply of deliverable housing sites is not a ceiling to development as recognised by other Inspectors¹⁶, given the level of housing supply, these factors attract considerable weight.
47. As described above, the Framework gives significant weight to contributing to and enhancing the natural and local environment by recognising the intrinsic character and beauty of the countryside. The development's conflict with the Framework on these matters, therefore, carries significant weight.
48. Where paragraph 11dii applies but conflict with a neighbourhood plan has been found, paragraph 14 further advises that the adverse impact of allowing development is likely to significantly and demonstrably outweigh the benefits, provided each of four criteria apply. In this case, the Neighbourhood Plan became part of the development plan within the last two years and contains policies and allocations to meet its identified housing requirements. Further, the Council has confirmed that it has more than a three-year supply of deliverable housing sites and with the housing delivery achieved at least 45 per

¹⁵ Footnote 7 of the Framework

¹⁶ Appeal refs: APP/P1560/W/3196926 and APP/W3520/W/18/3209219

cent of that required over the previous three years. I have no substantive evidence before me disputing these statements.

49. Consequently, the identified adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

50. The proposed development conflicts with the development plan as a whole and there are no material considerations, either individually or in combination, including the Framework and its presumption in favour of sustainable development, that outweigh this conflict.

51. For the reasons identified above, the appeal is dismissed.

Juliet Rogers

INSPECTOR