
Appeal Decision

Site visit made on 5 December 2023

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 12th December 2023

Appeal Ref: APP/Y2430/W/23/3321278

Cutie Pie Farm, Welby Lane, Ab Kettleby, Leicestershire LE14 3JR

- 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 Mrs Jen Clarke against the decision of Melton Borough Council.
 - The application Ref 22/01309/FUL dated 11 December 2022, was refused by notice dated 28 April 2023.
 - The development proposed is the change of use of land from agricultural to mixed agricultural and residential and the erection of a dwelling house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would be appropriately located, taking into account the Council's spatial strategy for housing development, with particular regard to the location of the site in the open countryside.
 - The effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Whether the proposal would be appropriately located

3. The appeal site comprises a relatively small parcel of agricultural land located within open countryside and is partially occupied by a static caravan, a number of sheds and domestic paraphernalia. The Council indicates that the site lies approximately 1km to the south of the village of Ab Kettleby. It is accessed off a track from Welby Lane which, in the vicinity of the appeal site, is an unlit, single carriageway width road having no pedestrian footways. The surrounding open countryside is predominantly in agricultural use.
4. To the immediate north of the site is a small, cladded unit, 'Weldair' which the Council indicates is in agricultural use. The submitted evidence suggests that an application (Ref: 23/00634/CL) has been made for a certificate of lawfulness for the change of use of this building from an authorised agricultural building to agricultural building and dwelling. In addition, an application (Ref: 23/00525/CL) for a certificate of lawfulness for the use of land for residential and the siting of a caravan has also been submitted with regard to the appeal

site. However, I have no evidence to indicate whether these applications have been determined. Furthermore, I have no substantive evidence to indicate the relevance of these applications to the appeal proposal before me. Consequently, I have attached no weight to these applications for a certificate of lawfulness in my determination of this appeal.

5. The appeal proposal would involve the construction of a three-bedroom, part single and part two storey self-build dwelling house. The Council indicates that this would be positioned in the approximate location of the existing static caravan. The remainder of the site would be partly used for residential and agricultural purposes, although I have no evidence to indicate the locational extent that such uses would occur on the site.
6. Policy SS2 of the Melton Borough Local Plan 2011-2036 (the Local Plan) sets out the development strategy for the location of new housing in the Borough. Amongst other things, this identifies that in the open countryside, outside the settlements identified as Service Centres, and those Centres and villages identified as Rural Hubs and Rural Settlements, new development will be restricted to that which is necessary and appropriate in the open countryside.
7. The supporting text to Policy SS2, as submitted by the Council in this appeal, does not provide any definition of the type of development that may be necessary and appropriate in the open countryside. Although the Council refers to paragraph 15 of the former Planning Policy Statement 7, this no longer forms part of national planning policy and, as such, is afforded no weight. However, paragraph 80 of the National Planning Policy Framework (the Framework) sets out that planning policies and decisions should avoid the development of isolated homes in the countryside unless a number of circumstances are met.
8. Criterion 'b', 'c' and 'd' of paragraph 80 relate to heritage assets, redundant or disused buildings or the subdivision of an existing residential building and therefore are not applicable to the circumstances in this appeal. Criterion 'a' refers to an essential need for a rural worker to live at or near their place of work in the countryside. However, I have no technical evidence from either the Appellant or any other interested party or consultee to support the need for an agricultural worker to reside on the appeal site. In particular, I have no evidence of the size or nature of the small holding or the type of agricultural operations undertaken that would conclusively support the need for a rural worker to live on site. As such, I do not consider that there is any compelling case for a rural worker to live on the appeal site.
9. Criterion 'e' of paragraph 80 of the Framework refers, amongst other things, to the design of buildings that are of exceptional quality and refers to these as being truly outstanding, reflecting the highest standards in architecture, and which would raise the standards of design more generally in rural areas. Although the Council raise no objection to the design of the proposed dwelling, I do not consider that any case can be made to suggest that this could be considered to be of such an exceptional quality within the context of the definition provided in paragraph 80.
10. The appeal proposal would make a modest contribution to housing supply in the Borough which carries some positive weight. However, the Council also suggests that the proposed new dwelling would represent unsustainable development. Although the Framework takes some account of the transport

shortcomings of rural areas, its focus is on maximising the use of sustainable transport solutions. It remains desirable, therefore, for new residential development to be located in appropriately served settlements.

11. The narrow nature of this part of Welby Lane, and having no pedestrian footpaths or street lights, would likely mean that walking and cycling to access the facilities in the centre of Ab Kettleby and beyond would be an unattractive option. It is evident that the proposal would place a high reliance on the use of the car. Even though the proposal is for a single dwelling, I consider that the location of the appeal site and the corresponding need to travel by car would not accord with the environmental dimension of sustainability.
12. Whilst the occupants of the proposed dwelling would make use of the services and facilities in nearby settlements which would support their vitality, they would be doing so using unsustainable transport means. Moreover, as the proposal is for a single dwelling, I do not consider that it would contribute to the enhancement or maintenance of the vitality of nearby settlements to any significant degree.
13. Taking the above factors into account, I consider that the proposal would constitute an unacceptable isolated home in the countryside. As such it would be contrary to the locational strategy of the development plan and would not accord with the environmental dimension of sustainability. Any public benefit that would arise from the proposed development, particularly in the context of a contribution to housing supply in the Borough, would be insufficient to outweigh the harm that would be caused by development in the countryside, outside of the existing settlement, and the environmental harm likely to arise from the reliance on private car journeys. It would therefore not accord with Policy SS2 of the Local Plan or with paragraph 80 of the Framework.

Character and appearance

14. I accept that the scale, mass and design of the proposed dwelling would be acceptable and in views from the south and east it would be seen in the context of the adjacent rural building to the west. Nonetheless, in such views it would appear as a prominent spur of built development that would extend into the countryside beyond the present agricultural building. As such, the appearance and rural character of the area in views from the wider countryside would be unacceptably changed and a more suburban character would prevail. Consequently, the proposal would result in the urbanisation of this part of the countryside that would fail to conserve the open rural character of surrounding the landscape.
15. I have taken into account the Appellant's contention that the development could be screened by landscaping. However, such landscaping features are impermanent and cannot be relied upon to mitigate the impact of permanent structures as they can be removed. Moreover, formal landscaping within the context of the site's countryside location would likely be an alien feature within this part of the rural landscape and would further add to the incongruity of the development.
16. I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the surrounding area. It would therefore conflict with Policies EN1 and D1 of the Local Plan. These policies,

amongst other things, seek to ensure that new development is sensitive to its landscape setting and is sympathetic to the character of the area.

Other matters

17. I have taken into account the fact that the proposed dwelling would be a self-build home. Policy C8 of the Local Plan, amongst other things, is supportive of self-build housing in locations within or adjacent to the built form of settlements and those in keeping with the surrounding area. The proposed dwelling would not be within or adjoining Ab Kettleby and, for the reasons set out above, it would not be in keeping with the character and appearance of the surrounding open countryside. Consequently, the proposal would be contrary to the relevant provisions of Policy C8.
18. My attention has also been drawn to the emerging Asfordby Parish Neighbourhood Plan 2011-2036 - Referendum Version. This plan has not yet been 'made' and neither party has referred to any of the policies contained therein. Consequently, I have attached limited weight to this plan.
19. Although part of the site is occupied by a static caravan, the Council indicates that this has been installed without the prior benefit of planning permission and is not currently occupied as residential accommodation. Whilst I have no evidence before me regarding any action that the Council is, or intending to take, regarding the caravan, its presence has no material bearing on my consideration of the above main issues that I have identified as the relevant determinative matters in this appeal.
20. I recognise the Appellant's desire to provide children with a safe space to live and play. However, this benefit does not outweigh the fundamental conflict that I have found with the locational strategy of the development plan and the harm that would be created to the character and appearance of the area.
21. I have also taken into account the contention that a new dwelling has recently been constructed at Mahogany House, located approximately 225m to the north of the appeal site. However, the Council has confirmed that this dwelling was a conversion from an agricultural building which was permitted under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015. As such, the planning issues are entirely different to the appeal proposal which I have determined on its own individual planning merits.

Conclusion

22. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR