
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: 22 December 2023

Appeal Ref: APP/Y2430/W/23/3325662

Land south of Stathern Lane, Harby, Leicestershire

- 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 Daniel Parnham against the decision of Melton Borough Council.
 - The application Ref 22/00709/FUL, dated 1 June 2022, was refused by notice dated 11 January 2023.
 - The development proposed is the erection of one new detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one new detached dwelling on land south of Stathern Lane, Harby, Leicestershire in accordance with the terms of application Ref 22/00709/FUL, dated 1 June 2022, subject to the attached schedule of conditions.

Procedural matter

2. Prior to my determination of this appeal, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 which replaced the previous version. I have taken into account the relevant provisions of the revised version in the determination of this appeal.

Main Issues

3. The main issues are:
 - Whether the site is a suitable location for housing having regard to its position outside of the Limits to Development for Stathern.
 - The effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Whether the site is a suitable location for housing

4. The appeal site comprises a grassed paddock located on the southern side of Stathern Lane and is bounded to the west by a detached dwelling. Properties in the vicinity comprise a mix of detached and semi-detached two storey and bungalow dwellings. However, those in the immediate vicinity on the south side of Stathern Lane are relatively large two-storey detached homes. This part of Stathern Lane forms the transition between the built-up area of Harby

- and the countryside to the south and east with development to the east of the appeal site becoming more sporadic.
5. Planning permission has been granted for two dwellings located to the east of the site (Ref 18/00775/FUL). One of these has been constructed, leaving an intervening vacant plot adjacent to the eastern boundary of the appeal site. Open countryside lies to the south. The proposed development would involve the construction of a detached, part single and part two storey, dwelling together with a new access point directly on to the south side of Stathern Lane.
 6. The Clawson, Hose and Harby Neighbourhood Plan (the Neighbourhood Plan) shows that the appeal site is located outside the Limits to Development. Although it is located very close to the established built-up areas of Harby, it is located in the countryside. Harby is designated as a Service Centre in the Melton Borough Local Plan 2011-2036 (the Local Plan). Service Centres are defined as villages that act as a local focus for services and facilities in the rural area and, along with other Service Centres and Rural Hubs, will accommodate 35% of the Borough's housing residual requirement on a proportionate basis.
 7. In considering the relevant planning policy context, Policy SS2 of the Local Plan supports small scale residential 'windfall' development where it would represent sustainable development under Policy SS1. It also states that new development in the open countryside will be restricted to that which is necessary and appropriate in the countryside. Policy SS1 identifies that the Council will take a positive approach in considering new development that reflects the presumption in favour of sustainable development.
 8. Policy H3 of the Neighbourhood Plan identifies that developments of 1 or 2 dwellings per field directly adjacent to Limits to Development, where access is directly available to current roads, will be supported. Policy H4 of the Neighbourhood Plan sets out that residential development on infill sites will be supported subject to proposals being well designed and meeting relevant requirements set out in other policies in the Plan. Amongst other matters, this policy provides support for such development that comprises a restricted gap in the continuity of existing frontage buildings or on other sites within the built-up area of Harby where the site is closely surrounded by buildings. It further supports development that is adjacent to the Limits to Development and meets the criteria in Policy H3. Such development should not adversely impact on the character of the area and the layout and yield of the site should respect the character of the immediate locality in terms of building orientation, massing and materials.
 9. The appeal site forms a gap in an otherwise predominantly built-up frontage along the south side of this part of Stathern Lane. Although outside of the Limits to Development, in being directly adjacent to existing and planned development with dwellings on both sides and opposite, the locational context of the appeal site appears as being part of the urban fabric of Harby as opposed to open countryside. In this context, the appeal proposal would not appear as an isolated dwelling in the countryside.
 10. In being sited directly adjacent to the urban fabric of the village with access directly off Stathern Lane, occupiers of the proposed dwelling would have convenient access to the services and facilities in the defined Service Centre and would contribute to the vitality of the community. In this context, I

consider that the proposed development would be sustainably located and consistent with the provisions of paragraph 83 of the Framework.

11. The proposal would represent windfall development that would make a modest contribution to housing supply within the Borough. It would be sustainably located within a gap in an otherwise developed frontage and positioned directly adjacent to the Limits of Development. Taking these considerations into account, the proposal does gain some support from the development plan.
12. Notwithstanding the above, the appeal site lies within open countryside where development is to be carefully controlled in line with local and national strategic policies. However, given my findings regarding the sustainability of the location of the site and taking into account the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework, I find that the appeal proposal would, in principle, be a suitable location for housing when the development plan is read as a whole.

Character and Appearance

13. The Council do not raise any material concerns regarding the design of the proposed dwelling itself. In my view, the design, scale, orientation and mass of the proposed dwelling would be appropriate for this site and would be sympathetic to, and consistent with, the vernacular of existing development in the immediate vicinity.
14. I have taken into account the Council's view that should the remaining dwelling be constructed pursuant to the extant planning permission (18/00775/FUL), the proposal would result in three dwellings being constructed in the same field, contrary to Policy H3 of the Neighbourhood Plan. Although the Council refers to overdevelopment of the site, I have no evidence of any particular planning policy within the development plan that provides specific density levels for Harby. The Appellant suggests that the proposal would represent a development of 8.6 dwellings per hectare. Even if the second dwelling was constructed pursuant to the extant permission, the level of density would not be inconsistent with that on this part of Stathern Lane. Consequently, I do not consider that the proposal would materially represent overdevelopment.
15. Although the frontage of the appeal site offers some views of the wider countryside and landscape beyond, such views are limited due to existing vegetation. Furthermore, to some extent the appeal site is overgrown and has little noticeable association with the agricultural land immediately to the south. In this context, there is nothing remarkable regarding the appearance of the appeal site to suggest that it makes any significant contribution to the character and appearance of the countryside. Given the presence of nearby dwellings, in my view, the appeal site has an appearance more akin to an infill plot on this part of Stathern Lane.
16. I have considered the Council's concerns that the proposal represents an encroachment into an identified important view, shown as No. 3 on Figure 10 of the Neighbourhood Plan. However, I share the Appellant's view that even a cursory inspection of Figure 10 shows that the arrows depicting such important views are not intended to demonstrate views from within the settlement as such views are inevitably obscured by the density and form of existing development.

17. Taking into account the position of the arrows shown Figure 10, I consider that view No.3 is more concerned with conserving the open nature of land to the south of the settlement rather than views from the road. I have no evidence to suggest that the development plan specifically identifies the appeal site itself as being a key component of view No.3, particularly as the arrows depicting this do not extend to the appeal site.
18. I recognise the Council's concerns that the current view is one of openness through the gap between existing dwellings. However, the extent of such gap would significantly reduce in the event that the additional dwelling approved pursuant to the extant planning permission were to be constructed. In any event, the proposed position of the built development would retain some views through the appeal site to the countryside beyond.
19. Given the presence of existing development to the east, I do not share the Council's view that the appeal site is located at the entrance to the village. I have set out above that the appearance of the appeal site within the context of existing development is akin to an infill plot. Furthermore, the density of development increases from the village entrance in a westerly direction. As such, the appeal proposal would not appear as overdevelopment but instead appear as an unassuming part of the developed frontage along the south side of Stathern Lane. It would have no material effect on the character of views along Stathern Lane on entering Harby from the east, particularly as the transition to lower density development would occur beyond the existing dwelling constructed pursuant to the extant permission.
20. Taking the above matters into account, I find that the appeal proposal would be sympathetic to the character and appearance of this part of Stathern Lane and would have no material effect on important views. It would reflect the wider context of the settlement character of the local area. Consequently, there would be no conflict with the provisions of Policies D1 and EN6 of the Local Plan and Policies ENV8 and H7 of the Neighbourhood Plan. These policies, amongst other things, require development to be sympathetic to the character of the area, respect and not harm open views and vistas that contribute positively to the individual character of settlements and not disrupt the visual amenities of the street-scene.

Other Matters

21. The Appellant has drawn my attention to a recent appeal decision (Ref: APP/Y2430/W/22/3297095) relating to the demolition of an existing barn and two existing dwellings and their replacement with three new dwellings, also located within Stathern. In that case the appeal site was partially outside the Limits of Development and was located within the Stathern Conservation Area. Notwithstanding the fact that I do not have full details of this case, the nature of the development and planning considerations are different to those in the appeal before me. Consequently, I have attached little weight to the decision of my colleague and have determined this appeal on its own individual planning merits.
22. I have also considered the concerns of the Parish Council which draws attention to another appeal decision (Ref: APP/Y2430/A/09/2104956) in which the Inspector identified the importance of views of the countryside through gaps on Stathern Lane. However, I also do not have full details of that appeal decision. Moreover, it pre-dated the publication of the first iteration of the Framework in

2012 and the adoption of the current development plan. Consequently, the planning policy background at that time was different to that in the appeal before me. In addition, it pre-dated the Council's decision to approve planning permission for the two dwellings to the east of the appeal site (Ref: 18/00775/FUL) which was determined on 5 October 2018 and after the date that the Neighbourhood Plan was 'made' on 6 June 2028. Consequently, I have also attached little weight to the provisions of that decision.

23. I have also taken into account the concerns of the Parish Council regarding the number of houses recently granted planning permission in Harby. However, national policy identifies a need to significantly boost the supply of housing and, whilst the Neighbourhood Plan sets out an identified housing requirement, this does not represent a cap on housing development. The proposed additional dwelling would make a modest contribution to housing supply in the Borough which is a benefit to which I attach moderate weight.

Conditions

24. I have considered the proposed planning conditions, including a number of pre-commencement conditions, that have been provided by the Council. I have considered these against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.
25. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty. In the interests of protecting the character and appearance of the area, conditions are necessary requiring the submission of details of external materials, implementation of hard and soft landscaping and the submission of details of ground and finished floor levels (condition Nos. 3, 5 and 6). In the interests of highway safety, a condition is necessary requiring the implementation of the access, parking and turning arrangements (No. 4).

Conclusion

26. 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 allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings:
 - Location plan
 - Proposed block plan
 - Proposed block plan & visibility splays
 - Proposed highways access & boundaries
 - Proposed floor plans & elevationsreceived by the Local Planning Authority on 1st June 2022
- 3) No development shall start on site until all external materials to be used in the development hereby permitted have been agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall not be occupied until such time as the access arrangements, parking and turning facilities have been implemented in accordance with the drawings approved under condition 2. Thereafter the onsite parking provision, access arrangements and turning facilities shall be so maintained for the duration of the development.
- 5) Hard and soft landscaping works shall be fully carried out in accordance with the approved details.

Any trees or plants which, within a period of five years after planting are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of similar species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
- 6) No development shall commence on site until such time as the existing and proposed ground levels of the site and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.