



Appeal Decision

Site visit made on 20 December 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2024

Appeal Ref: APP/G2435/W/23/3316919

**Land to the side and rear of 25 Butt Lane, Blackfordby, Leicestershire
DE11 8BG**

- 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 Mr Jonathan Bennett against the decision of North West Leicestershire District Council.
 - The application Ref 22/01431/OUT, dated 7 September 2022, was refused by notice dated 27 October 2022.
 - The development proposed is the demolition of existing stable building and the erection of one new dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters of detail other than access reserved for subsequent approval. I have determined the appeal on that basis.
3. The Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. The main parties have been given the opportunity to comment on this version and in reaching my decision I have taken account of the comments that were received. For the avoidance of doubt, where reference is made in this decision to paragraph numbers, they are taken from the latest version of the Framework.

Main Issues

4. The main issues are:
 - Whether the appeal site is a suitable location for the proposed development having regard to national and local planning policies; and
 - Whether or not it has been demonstrated that the appeal site is suitable for the proposed development having regard to past coal mining activity.

Reasons

Suitable location

5. Policy S2 of the North West Leicestershire Local Plan (LP) sets out the Council's Settlement Hierarchy. It indicates that those settlements higher up the hierarchy will take more growth than those lower down. The appeal site lies outside of Limits to Development of Blackfordby. Blackfordby is identified in LP

Policy S2 as a Sustainable Village, which is a settlement with a limited range of services and facilities where a limited amount of growth will take place within the defined Limits to Development.

6. LP Policy S3 defines land outside the Limits to Development as countryside. It identifies several specified uses which are supported in the countryside, subject to considerations set out in criteria. One such use is the redevelopment of previously developed land (PDL) in accordance with LP Policy S2.
7. The main parties agree that the site is PDL and based on the information before me I have reached the same finding. To satisfy LP Policies S2 and S3, any redevelopment of PDL should, amongst other things, be well related to the settlement it is outside of and be well integrated with existing development and buildings.
8. The appeal site is within an open landscape separated from the rear of properties on Butt Lane, and from Boothorpe Lane, by some distance. The character of the site is rural, blending into the wider agricultural landscape. Due to the extent of the separation the appeal site does not appear to form part of the settlement of Blackfordby. Consequently, the proposed dwelling would not relate well, or integrate with existing dwellings within Blackfordby contrary to the requirements of LP Policies S2 and S3.
9. The site does not fall within an area designated for its landscape value and the proposal would not result in the loss of any landscape feature such as trees and hedgerows. Furthermore, the proposed dwelling could be controlled using conditions to ensure that it would have a similar footprint to the stable that currently occupies the site and has a height and scale appropriate to its surroundings. Nonetheless, the proposed development of this site for residential purposes would introduce parking and domestic paraphernalia. Although the plot size is relatively small, such a change to the appearance of the site, together with the increased activity due to the additional comings and goings associated with residential occupation would result in its urbanisation. This would erode the openness of the countryside and have a detrimental effect on the rural setting.
10. The site is close to bus stops and its accessibility to local services and facilities would be similar to that of existing residents within Blackfordby. However, it remains that the appeal proposal conflicts with the development plan when considered as a whole, given that the proposed development would not be well related to, or integrate into, Blackfordby.
11. As such, I find that the appeal site is not a suitable location for the proposed development as it is contrary to LP Policies S2 and S3. The Proposal is also contrary to Policies G1 and H3 of the Blackfordby Neighbourhood Plan, which seek to control development outside of the Limits to Development, and the Framework.

Past coal mining activity

12. The site is within a Development High Risk Area as identified by the Coal Authority (CA), in a location where it believes there is coal at or close to the surface, which may have been worked in the past.
13. In response to the second reason for refusal the appellant has submitted a Coal Mining Risk Assessment (CMRA) with the appeal documents. The CA, however,

has maintained its objection, considering that the CMRA does not adequately assess the risks posed by the coal mining legacy, specifically the risks posed by potentially unrecorded shallow coal mining workings.

14. I acknowledge that there are buildings on and around the site which do not display any evidence of land stability issues. However, without an assessment that satisfies the consultee, I cannot be certain that the site is either safe and stable, or could be made safe and stable, for the proposed development.
15. The appellant considers that the use of a suitably worded condition would be adequate to secure further survey work prior to developing the site. However, this is not a matter that could be addressed through the imposition of a planning condition without having the potential to nullify the permission. Such a condition would not, therefore, meet the test of reasonableness as set out in paragraph 56 of the Framework.
16. I therefore find that the proposal would fail to provide a suitable site for the proposed development having regard to past coal mining activity. It would therefore be contrary to LP Policy En6 and paragraphs 189 and 190 of the Framework which require adequate site investigation information and places the responsibility for securing safe development with the developer and/or landowner.

Other Matters

17. The appeal site lies within the catchment area for the River Mease Special Area of Conservation. However, there is no need for me to consider the implications of the proposal upon it because the scheme is unacceptable for other reasons.
18. The sufficiency of on-site parking provision, adequacy of access visibility, the absence of ecological harm and adequacy of living conditions for the proposed and existing residents are neutral factors that do not weigh in favour of, or against, the scheme.

Conclusion

19. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
20. I hereby dismiss this appeal.

Elaine Moulton

INSPECTOR