



Appeal Decision

Site visit made on 4 January 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal Ref: APP/G2435/W/23/3324297

Land North of Aqueduct Road, Coleorton, 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 A Poynton against the decision of North West Leicestershire District Council.
 - The application Ref 22/00029/FUL, dated 5 January 2022, was refused by notice dated 31 January 2023.
 - The development proposed is the erection of a new 4 bedroom self-build dwelling, double garage and associated external works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023 a revised National Planning Policy Framework ('the Framework') was issued. The parties were invited to comment on this document and the comments received have been taken into account in the determination of the appeal.
3. In the appellant's final comments new evidence was submitted. Normally such evidence would not be accepted. However, the appellant could not have submitted this evidence with his appeal statement because the evidence consisted of permissions that had been granted by the Council since the appeal had been made. In determining this appeal, I have therefore taken into account this evidence and the responses received from the main parties in relation to it.
4. The district of the Council contains part of the River Mease Special Area of Conservation (SAC) which is in 'unfavourable' conservation status for the purposes of the Habitats Regulations. As a result, any development proposal that would result in a likely significant effect on the SAC must be subject to an Appropriate Assessment. The main parties to the appeal and Natural England were invited to comment on this matter. Based upon the responses received, I am satisfied that the appeal site does not lie within the SAC and so have not considered this matter further in this appeal.

Main Issues

5. The main issues in this appeal are:
 - whether the location of the proposed development would comply with the spatial strategy of the development plan;

- the accessibility of services and facilities from the appeal site by sustainable modes of transport; and,
- the self-build and custom housebuilding duty.

Reasons

Location of development

6. The development plan for the area includes the North West Leicestershire Local Plan ('Local Plan'), adopted in 2021. Policy S2 of the Local Plan has established a settlement hierarchy which identifies the settlements which are the most suitable in sustainability terms to meet the development needs of the District. At the top of the hierarchy is the Coalville Urban Area which is classified as a Principal Town. Coleorton straddles the fourth and fifth tiers of the hierarchy with the application site located within that part of Coleorton which lies within the fifth and next to bottom tier of the least sustainable type of settlement, namely the Small Village.
7. Small Villages are defined by the policy as settlements with very limited services where development will be restricted to conversions of existing buildings, the redevelopment of previously developed land or the provision of affordable housing to meet need local to the village in accordance with policy H5 of the Local Plan. As the appeal site is undeveloped pasture, and the proposal is not for affordable housing, the proposed scheme would therefore be contrary to policy S2 of the Local Plan
8. As the Small Village part of Coleorton is located on land falling outside the defined settlement Limits to Development, for planning policy purposes the appeal site is also located within the countryside where development is strictly controlled by policy S3 of the Local Plan. Given that the proposed scheme does not fall within the list of development types supported by policy S3 it is therefore also contrary to this policy and the spatial strategy of the development plan.
9. Planning permissions were previously granted for a house on the site in 2015 and 2016. These permissions though were determined against the development plan that applied at that time, and not against the policies of the current Local Plan. As a consequence, reference to these permissions has not altered my findings in relation to this issue.

Accessibility of services and facilities

10. As I have described, the part of Coleorton that the appeal site is located in is categorised as a Small Village which is the next to lowest tier of the Local Plan's settlement hierarchy owing to its very limited services and facilities. Even where a development proposal for new housing in such locations accords with policy S2 of the Local Plan, by virtue of policy S3 this is subject to the development being accessible by a range of sustainable transport.
11. The other part of Coleorton is classified by the Local Plan as a Sustainable Village because it has a limited range of services and facilities. However, its small shop / post office has now closed. Furthermore, interested parties state that Lower Moor Road which connects the two parts of Coleorton no longer has a functioning bus stop. This assertion has not been challenged by the appellant and I saw no evidence to the contrary during my site visit. This part of the

village therefore now has materially fewer services and facilities than was the case.

12. Whilst a public house is located approximately 600m away from the appeal site, and so is within reasonable walking distance, the nearest primary school and recreation area are located within Newbold Coleorton 1km away which is sufficiently far away to deter walking. Moreover, even if this was not the case, the absence of a pedestrian crossing point or central reservation on Rempstone Road is a strong deterrent to accessing Newbold Coleorton on foot. Given the 50 mph speed limit on Rempstone Road and the staggered nature of the junction connecting Lower Moor Road to the road into Newbold Coleorton, this route would also deter all but the most confident from cycling to access these facilities.
13. With the minimum distances to the nearest bus stops to the nearest hundred metres being at least 1000m from the appeal site, and the limited availability of buses, it is likely that there would be a daily reliance on the use of private vehicles to meet the day to day needs of future residents of the proposed dwelling. Indeed, the provision of 5 car parking spaces as part of the design of the scheme is indicative of how car dependant the proposed development would be.
14. The Framework recognises that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Even so, for the reasons given above, the appeal site has poor access to services and facilities by sustainable modes of transport. This is a consideration that adds further weight against the appeal.
15. Reference has been made by the appellant to 2 recent decisions (refs 22/01504/FUL and 22/01547/FUL) by the Council where it granted planning permission for self-build houses outside the defined Limits to Development and within the countryside.
16. However, the first site (ref 22/01504/FUL) adjoins the Limits to Development for Whitwick which forms part of the Principal Town in the settlement hierarchy because it has an extensive range of services and facilities. As the services and facilities in Whitwick are readily accessible on foot or by bicycle from the site residents of the self-build house would not need to be reliant on the daily use of a car.
17. The second permission (ref 22/01547/FUL) relates to a site that is approximately half way between Heather, which is classified as a Sustainable Village, and Ibstock, which is classified as a Local Service Centre. The Local Plan identifies Local Service Centres as providing some services and facilities that meet day to day needs and explains that Sustainable Villages have a more limited range. A shop, school, public house and community centre in Heather are within reasonable walking distance of the site. Within Ibstock, a wider range of services and facilities would also be either accessible on foot or by bicycle. Consequently, a wider range and number of day to day services than the appeal site could also be accessed from this site without reliance on a private car.
18. As a result, the two decisions referred to are materially different from the appeal proposal and reference to these two decisions has not altered my findings in relation to this issue.

Self-build and custom housebuilding duty

19. The Self-build and Custom Housebuilding Act 2015 (as amended) ('the Act') places a statutory duty on the Council to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. The demand registered in each 12 month base period from the end of October 2015 onwards must be met by 30 October 3 years after the end of each period.
20. The current undisputed position, as of 30 October 2023, is that with the number of people on the register on 30 October 2020 (end of base period 5) and the permissions that have been granted there is a shortfall of 22 plots with permission. This is a significant shortfall.
21. Permission has been granted in principle for 4 additional plots. However, as permission will not be granted until properly completed planning obligations have been submitted these plots cannot be included in the count of self-build plots. There are also currently 9 other applications for self-build dwellings amounting to 19 plots being considered by the Council. It is not known though how many of these plots will actually receive planning permission and so will be able to be counted.
22. For the above reasons, I have therefore assessed the appeal proposal against the shortfall of 22 plots. In this context, the proposed scheme in providing one self-build dwelling, which equates to 4.5% of the shortfall, would make a small contribution to addressing it.
23. The appellant's self-build statement is of the view, based on secondary data sources, that the level of demand for self-build dwellings in the district is substantially higher than that recorded on the register. If that is the case then the proposed dwelling would make an even smaller contribution to addressing demand than I have stated. Therefore, whilst I attach substantial weight to compliance with the statutory duty, I only attach modest weight to the contribution that the appeal scheme would make towards meeting it.
24. The parties have apportioned differing weights to different considerations in this appeal. As the decision maker though I am entitled to reach a different view in relation to such matters.
25. Reference has been made to a number of appeal decisions in the self-build statement where substantial weight has been attached to either the social and economic benefits of self-build development proposals, or to the contribution that a self-build scheme would make to addressing the shortfall of permissions against the statutory duty. However, in the decisions referred to, only selected excerpts containing limited information have been provided. As a result, in almost all it is not possible to draw comparisons with the proposal in this appeal regarding the extent of any shortfall that exists and the contribution that the scheme would make to addressing the shortfall.
26. In the one case where all such information has been provided, the proposed development would provide 30 self-build plots which would fully meet the demand in relation to the first base period and would meet the majority of demand for subsequent base periods. As a result, the scale of that

development and its associated benefits are considerably greater than in the appeal proposal before me. For the reasons that I have given, reference to these other decisions therefore has not altered my findings in relation to this issue.

Other matters

27. Planning permissions were previously granted for a house on the site following applications made in 2015 and 2016. These permissions though were determined against the development plan that applied at that time and the services and facilities that were then present and not against the policies of the 2021 Local Plan and the current situation. As a consequence, these lapsed permissions are not a consideration of material weight in favour of the appeal.
28. The proposed development would be acceptable in terms of its design, highway safety and its effect on the living conditions of neighbours. However, the absence of harm is a matter of neutral rather than positive weight that weighs in favour of a proposal.

Planning balance

29. Applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons I have set out earlier, the location of the proposed development would be in conflict with the spatial strategy of the development plan. As a result, the proposal would be contrary to policies S2 and S3 of the Local Plan and contrary to the development plan considered as a whole.
30. As both parties have noted though the development plan is silent on the provision of self-build and custom housing. The National Planning Policy Framework ('the Framework') is an important material consideration and paragraph 11 d) of the Framework advises that where there are no relevant development plan policies permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
31. As described above, whilst I attach substantial weight to compliance with the statutory duty to supply self-build and custom housebuilding plots, I only attach modest weight to the small contribution that the proposed dwelling would make towards addressing it. This would be a moderate social benefit of the scheme. Economically, the support that the construction of one additional house and its future occupancy would provide for the local economy would be insignificant.
32. Environmentally, the proposed house would be located within a Small Village within the countryside where, other than in relation to dwellings for workers who need to reside in the countryside, new build housing is limited to affordable housing to meet local need. This is in order to focus development on settlements with services and facilities that are accessible. Such an approach is supported by the Framework. Whilst the Framework supports small sites to come forward for self-build and custom-build dwellings, it also gives substantial weight to the value of using suitable brownfield land within settlements for housing.

33. The adverse impact that would be caused environmentally, and to the development plan's spatial strategy, by building a large dwelling with parking for five vehicles in a Small Village within the countryside that would be dependent on car travel to meet its day to day needs would be significant.
34. Consequently, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

35. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework and the shortfall against the statutory duty to provide self-build plots, which outweigh this finding. Therefore for the reasons given above, the appeal should be dismissed.

Ian Radcliffe

Inspector