



Appeal Decision

Site visit made on 8 April 2024

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 26 APRIL 2024

Appeal Ref: APP/T2405/W/23/3333549

Netherby House, Huncote Road, Croft, Leicestershire LE9 3GU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Rachel Smiles against the decision of Blaby District Council.
 - The application Ref is 23/0476/FUL.
 - The development proposed is the erection of a dwellinghouse.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a dwellinghouse at Netherby House, Huncote Road, Croft, Leicestershire LE9 3GU in accordance with the terms of the application, Ref 23/0476/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding countryside;
 - whether the appeal site would be a suitable location for the proposed development, with particular regard to the requirements of the development plan and the accessibility of services and facilities; and
 - whether there are any other considerations that indicate a decision other than in accordance with the development plan.

Reasons

Character and appearance

4. The area is rural with low-density pockets of residential development surrounded by open countryside. This portion of Huncote Road is characterised by large, detached dwellings, set back from the highway within spacious, verdant plots. The appeal site comprises an area of garden associated with Netherby House.
5. The proposed dwelling would be set further back from Huncote Road than the adjacent residential properties. However, this portion of the road does not

benefit from a clearly defined building line with the distance between the road and front elevations varying from property to property. It would infill a small gap within the existing row of development and would not encroach into the surrounding countryside beyond the clearly defined gardens. Moreover, the appeal site has a large number of mature trees and plants which would obscure its relationship with the neighbouring properties.

6. As such, I conclude that the proposal would not harm the character and appearance of the surrounding countryside. It would accord with Policies CS2 and CS18 of the Blaby District Local Plan (Core Strategy) Development Plan Document (February 2013) (CS) as well as Policy FV6 of the Fosse Villages Neighbourhood Plan (June 2021) (NP) where collectively they seek to ensure that development respects distinctive local character and contributes to creating places of a high quality, that are appropriate to its context, taking account of local patterns of development and landscape.

Location

7. CS Policies CS1 and CS5 as well as NP Policy FV7 outline the amount and distribution of housing development within the district, focusing development within built-up areas which contain a good range of services and facilities and access to a range of transport modes. The parties agree that the appeal site is outside of the limits to built development of Croft and is therefore located within the countryside.
8. Policy CS18 of the CS and Policy DM2 of the Blaby District Local Plan (Delivery) Development Plan Document) (February 2019) (DDPD) provide support for new development within the countryside, where development would not have a significantly adverse effect on the character or appearance of the landscape, and that the need to retain countryside is balanced against the need to provide new development in the most sustainable locations.
9. Meanwhile, Policy FV8 of the NP indicates that support for proposals for housing development situated outside the Limit to Built Development shall be limited to specific circumstances. These include where small scale housing is proposed in the most sustainable locations, assessed against the need to retain the Countryside. It also suggests that proposals are accompanied by a landscape and sustainability impact assessment.
10. Although the appellant has not submitted landscape and sustainability impact assessments, I have concluded that the proposal would not harm the character and appearance of the area. Croft, which is defined as a 'Medium Central Village' through the CS contains a modest range of services and facilities, including a small parade of shops, a post office, a primary school, a public house, a church, and a children's play park. In addition, there is a limited but regular bus service into Leicester, Lutterworth and Rugby.
11. Notwithstanding the above, the appeal site is located some distance from the services and facilities located within the village. I note that the village would be accessible via the adjacent public right of way, however this is not lit or paved and would not form a particularly desirable route, particularly during the winter months. It is seemingly inevitable that future occupiers would look to utilise private modes of transportation for at least a considerable portion of their day-to-day journeys. Therefore, I do not consider the appeal site to meet the description of 'most sustainable location'.

12. Consequently, I conclude that the appeal site would not be a suitable location for the proposed development with particular regard to the requirements of the development plan and the accessibility of services and facilities. The proposal would conflict with Policy CS18 of the CS and Policies FV7 and FV8 of the NP in so far as these policies promote small scale housing in the most sustainable locations.
13. For the avoidance of doubt, I do not identify direct conflict with Policies CS1 or CS5 of the CS on the basis that it focuses on the distribution of housing in broad overarching terms. I also note here that DM2 of the DDPD is of somewhat limited relevance to my considerations. This is because its detailed criteria apply only where development proposals in the Countryside are consistent with Policy CS18.

Other considerations

14. The parties agree that the Council is only able to demonstrate a 3.69 year housing land supply. This is well below Government expectations. The proposal would provide an additional house on previously developed land, that would contribute to the districts housing supply. It would not be isolated and would be in keeping with the character and appearance of the area. Whilst the proposal would only deliver one dwelling this would nonetheless be valuable in boosting the housing stock in circumstances where there is a significant shortfall.
15. Short term employment would be provided during the construction and in the long term the future occupiers would benefit the local economy and community by helping to sustain the vitality and viability of the surrounding settlements including Croft.

Planning Balance

16. The proposal would conflict with certain aspects of the spatial strategy. Although, the proposal would be in keeping with the character and appearance of the area and would not encroach into the surrounding countryside, there would nonetheless be conflict with the development plan as a whole. However, because of the housing land supply position, paragraph 11 d) of the Framework is engaged.
17. I do not consider the appeal site to be a 'most sustainable location' within the district. Nevertheless, there would be some sustainable transport options available at certain times of the year and car journeys would be limited in length due to its proximity to Croft and other larger towns and cities within the district. Therefore, the conflict is limited.
18. The proposal would deliver an additional housing unit in a District that is falling well short of the level of housing supply required by national policy. One dwelling would make a minor but useful contribution as indicated by paragraph 70 of the Framework. Furthermore, the dwelling would make efficient use of previously developed land and contribute to a prosperous rural economy and help to maintain local services and facilities, such as the Croft primary school in line with the provisions of the Framework. As such, the benefits of the proposal are moderate.
19. When assessed against the policies in the Framework as a whole, the adverse impact on the spatial strategy does not significantly and demonstrably outweigh the benefits of an additional home in a relatively accessible location

which would contribute to the local economy. Consequently, the presumption in favour of sustainable development applies and this indicates that permission should be granted.

Conditions

20. I have considered the conditions put forward by the Council against the Framework and where necessary I have amended the wording in the interests of effectiveness and precision. Aside from the statutory condition required to set the necessary time limit for development [1], a condition is required to indicate the approved plans to provide certainty [2]. To ensure that the proposal is in keeping with the area a condition requiring details of materials is necessary [3]. A pre-commencement condition regarding floor levels is necessary to fully understand the relationship between the proposal and the neighbouring properties [4].
21. The proposed landscaping condition will be amended and combined with the conditions relating to biodiversity to ensure that the site adequately assimilates into the area and appropriate ecological enhancements are made [5]. Additional conditions are required to ensure that the approved landscaping is adequately protected both during the construction and in the future [6,7]. To ensure the schemes meet expectations, these conditions are required pre-commencement.
22. To preserve highway safety, conditions are required to ensure that adequate parking, turning, and drainage are provided prior to the first occupation of the proposed dwelling [8,9]. To ensure the living conditions of the neighbouring occupiers with regard to privacy, I have imposed a condition requiring the first-floor side facing windows to be obscurely glazed [10]. An additional condition limiting future openings is not necessary as they would be subject to limitations via the Town and Country Planning (General Permitted Development) Order 2015.
23. Planning Practice Guidance states that conditions restricting the future use of permitted development rights often do not pass the test of reasonableness or necessity. To prevent future encroachment into the countryside and ensure adequate parking provision, the council has suggested several conditions which would restrict permitted development rights.
24. Despite its location, the appeal site is set within an existing row of development and is largely screened with a clearly defined boundary to the surrounding open countryside. In addition, I am satisfied that the proposed area of hardstanding would provide sufficient parking regardless of any future conversion works to the garage. As such, these conditions are not justified.

Conclusion

25. The proposal conflicts with the development plan as a whole. However, the presumption in favour of sustainable development applies. In this particular case, material considerations indicate that planning permission should be granted, notwithstanding the conflict with the development plan. Therefore, for the reasons given above, the appeal is allowed.

K Allen

INSPECTOR

Schedule of Conditions

- 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 approved plans: NH/D1 Preliminary Scheme Proposal.
- 3) No development above ground level shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until details of finished floor levels for the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall commence until a landscaping/biodiversity scheme, has been submitted to and approved in writing by the local planning authority. The scheme shall include details of:
 - a) any existing trees, shrubs, hedges, water bodies to be retained and measures of protection in the course of development;
 - b) new tree and shrub planting, including plant type, size, quantities and locations;
 - c) other surface treatments;
 - d) fencing and boundary treatments;
 - e) any changes in level or contours;
 - f) the position of service and/or drainage runs which may affect tree roots;
 - g) measures to enhance biodiversity; and
 - h) an implementation plan, including timescales.

Development shall be carried out in accordance with the approved details and the agreed implementation plan.

- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 7) Any trees or plants (existing retained or proposed) that, within a period of five years after planting (or replanting if previously failed), are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced within the next planting season with others of species, size and number as originally approved.

- 8) Prior to occupation of the development hereby permitted, the car parking and turning area, indicated on drawing number NH/D1 shall be provided and suitably surfaced in a hard bound material. The car parking and turning area shall thereafter be retained for that specific use.
- 9) Prior to occupation of the development hereby permitted, drainage shall be provided within the site, such that surface water does not drain into the public highway. The drainage shall thereafter be retained.
- 10) The first-floor windows located on the side elevations shall be fitted with obscure glazing. Once installed the obscure glazing shall be retained thereafter.

*****End of Conditions*****