



Appeal Decision

Site visit made on 12 March 2024

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2024

Appeal Ref: APP/X2410/W/23/3325129

31 Church Road, Wanlip, Leicestershire LE7 4PJ

- 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 Mr Gary Pallett against the decision of Charnwood Borough Council.
 - The application Ref is P/22/0589/2.
 - The development proposed is proposed new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has identified that Examination in Public of the Draft Charnwood Local Plan (2021-2037) (Draft LP) has begun and the Plan is moving towards the 'modifications' stage. Although the Plan has been examined, I cannot be certain when the Plan is likely to be adopted or if any policies are to be modified. The Council has provided a detailed update on the weight it considers should be attributed to each of the draft policies. The appellant has said that the Plan is at Examination Stage and therefore would normally carry moderate weight in the planning balance. Given the progress of the emerging plan the policies within it attract moderate weight in decision making and I have therefore taken these policies into account in my assessment.
3. Revised plans were submitted by the appellant that added scale bars to the drawings as well as revising the height of the retained boundary wall following a resurveying of the site¹. Since these revised drawings sought to provide accuracy rather than evolve the scheme and because the Council has had the opportunity to comment on them in its evidence, I will accept the revised plans and determine the appeal in accordance with them.
4. Since the Council issued its decision the National Planning Policy Framework (the Framework) was updated in December 2023. The parties provided comments on the updates to the Framework within their evidence and as such it has not been necessary to consult them further.

Main Issues

5. The main issues are whether the proposed dwelling would be in a suitable location having regard to local policies concerned with housing in rural areas; and the effect of the proposal upon the character and appearance of the area.

¹ 2120074-P-002 Rev B; 2120074-P-003 Rev C; 2120074-P-004 Rev B; 2120074-P-005 Rev C & 2120074-P-006 Rev C.

Reasons

Whether the proposed dwelling would be in a suitable location having regard to local policies concerned with housing in rural areas.

6. The development plan for the area comprises the Charnwood Local Plan Core Strategy 2011-2028 (CS) that was adopted 2015 and saved policies of the Borough of Charnwood Local Plan (LP) that was adopted in 2004.
7. Policy CS1 of the CS sets out the settlement strategy for the Borough, where 13,940 new homes are provided for between 2011 and 2028. Wanlip is included within the Small Villages and Hamlets category in the CS. This policy states that the Council will safeguard services and facilities and respond positively to development that meets a specific local social or economic need in our smallest settlements. They will do this where the specific local social or economic need is identified by a Neighbourhood Plan or other appropriate community-led strategy; or the development supports sustainable businesses in accordance with Policy CS10. As far as I am aware a Neighbourhood Plan for Wanlip has not been 'made' and the development would not support sustainable businesses. Consequently, the scheme would not be in accordance with Policy CS1 or CS10.
8. As the proposal does not seek to deliver housing development for local needs in accordance with Policy CS3 the scheme would also not accord with Policy CS11 insofar as it relates to allowing housing development for local needs.
9. The site lies outside the development limits of Wanlip and within the countryside as identified in the development plan.
10. LP Policy CT/1 sets out general principles for areas of countryside, green wedge and local separation. The proposal for housing would not accord with the principles and as such it would conflict with this policy.
11. As the proposal would not be acceptable in principle as per LP Policy CT/1, it would also conflict with LP Policy CT/2 which relates to developments in the countryside that are acceptable in principle. The proposal would also not accord with LP Policy ST/2 which restricts built development to allocated sites and other land within development limits, subject to specific exceptions that the proposal would not accord with.
12. Wanlip is within the Small Villages and Hamlets category in the settlement hierarchy of Policy DS1 of the Draft LP. This states that 18 homes are expected to be delivered within all of these settlements over the plan period. These settlements do not have defined Limits to Development and as such are treated as part of the countryside. It expects development to be confined to sites allocated in this local plan and neighbourhood plans and other land within the Limits to Development, subject to specific exceptions set out in this plan.
13. Policy C1 of the Draft LP relates to development in the countryside and supports small scale new built development where there would not be significant adverse environmental effects, and this would be the case in this instance. I acknowledge that the proposal would not constitute an 'isolated home' in the countryside within the meaning of the Framework, given its proximity to dwellings in the area. However, Policy C1 states that new isolated homes in the countryside will be supported if one or more of a number of circumstances apply and the case has not been put forward that the proposal

- would accord with any of them. Taking into consideration the development proposed I find that it would not accord with any of the circumstances.
14. Policy H6 of the Draft LP states that the Council will support proposals for self-built and custom housebuilding in locations considered suitable for housing in accordance with Policies DS1 and C1. As already concluded above, the location of the proposal would not be suitable for housing with regard to these policies.
 15. Accordingly, when assessed against both adopted development plan policies and the emerging development plan policies, the site is identified as within the 'countryside'.
 16. Wanlip is a small settlement and whilst there is a church there would appear to be very limited services and facilities within short walking distances of the site. The Framework does identify that where there are groups of smaller settlements development in one village may support services in a village nearby and that transport solutions will vary between urban and rural areas.
 17. There are services and facilities in the surrounding settlements including Birstall to the south. However, these are not located in Wanlip itself and there would not appear to be bus services from Wanlip to these facilities. Whilst there is a pavement with street lighting between Wanlip and Birstall this would be a significant distance to walk to meet the day to day needs of the future occupiers. As such the occupiers of the proposed dwelling would be reliant on private cars for travel, with limited options to encourage movement by other means, especially when trying to meet their day-to-day needs.
 18. Therefore, judged against local policies, the proposed dwelling would not be in a suitable location having regard to local policies concerned with housing in rural areas. As a result, the proposal would not accord with Policies CS1 and CS11 of the CS and saved Policies ST/2, CT/1 and CT/2 of the LP. It would also not be in accordance with Policy DS1 of the Draft LP. Furthermore, it would not accord with the Framework. These seek, amongst other matters to secure a sustainable pattern of development in accordance with the aims of the settlement strategy.

Character and Appearance

19. The appeal site is located to the rear of 31 Church Road (No 31) which itself is a large, detached house situated to the rear of a cul-de-sac. The site would be accessed via an existing gap in a historic brick wall that would be widened. This wall is identified as being associated with Wanlip Hall that was demolished and it is not disputed that it is a non-designated heritage asset.
20. The site gently slopes away from No 31 and there are trees and shrubs sporadically located across the site. There are also small buildings on the site that are in poor repair. Beyond the site is open undeveloped land that is covered by dense shrubs and vegetation.
21. Wanlip is a small settlement that is characterised by ribbon development with the principal elevations of the dwellings addressing the road. There are some dwellings in the area that do not follow this pattern of development but development at depth is uncommon and overall, the ribbon housing does define the pattern of development. The houses themselves vary in scale, design as well as the materials used, and this creates an attractive variety to the street scene where no single design dominates.

22. The appeal site is located to the rear of No 31 and this area whilst appearing to be garden land, does form part of the open countryside beyond the village, with the brick wall acting as both a physical and visual boundary to the village in this location. The undeveloped appearance of the appeal site, alongside the open countryside nearby positively contributes to the attractive rural landscape character around Wanlip.
23. The proposed house would be a large, one and a half storey dwelling with dual mono-pitched roofs. The dwelling would be contemporarily designed and given the variety of houses in the area, there is scope to accommodate well designed contemporary dwellings without harming the character of the area. The scale of the house would also not be disproportionately large compared to the surrounding houses. The materials proposed would replicate some of those used within the area and timber cladding is used on No 31 and the other dwellings within the cul-de-sac. The dwelling would also be located within generous grounds and would maintain reasonable gaps between it and the surrounding houses to ensure it would not appear cramped within the site.
24. However, the dwelling would be located a significant distance from Church Road behind two houses and this would be inconsistent with the ribbon development common in the area. Whilst the development around the cul-de-sac itself differs from the established ribbon development, it is limited, and the two dwellings located to the rear are close enough to still form part of the street scene, with the dwellings main elevations addressing the road. In comparison, the proposed dwelling would be located a significant distance from the roadside and the glimpsed views of the house between No 31 and the neighbouring property as well as from Riverside Mews, would appear isolated from the surrounding development.
25. Whilst there are dwellings built in line with the proposed dwelling, these are located on the other side of the brick wall that defines the edge of Wanlip in this location. Development beyond the brick wall would extend the built form of the village beyond this physical and visual boundary and would appear incongruous in the area. The construction of a large dwelling on this site would also detract from the positive effect this site makes towards the rural landscape character around the edge of Wanlip.
26. Given my concerns with some of the fundamental design principles of the scheme, I am not satisfied planning conditions could mitigate the harm.
27. Therefore, the proposed development would harm the character and appearance of the area. Consequently, the proposal would not accord with Policy CS2 of the CS and saved Policy EV/1 of the LP and the Supplementary Planning Document on Design. It would also not accord with Policy DS5 of the Draft LP. Furthermore, it would not accord with the Framework. These require development, amongst other matters, to respect and enhance the character of the area and support development that is of a design, scale, layout and mass compatible with the locality, and which uses materials appropriate to the locality.

Other Matters

28. I have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with regards to listed buildings and their setting.

29. The Grade II listed Church of St Nicholas is located nearby to the site. However, given the distance between the site and the Church as well as the intervening buildings and the historic wall, the proposal would be screened from views to and from the Church and would not affect the setting of the designated heritage asset and thus its setting would be preserved.

Planning Balance and Conclusion

30. Paragraph 226 of the Framework states that certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework.
31. It goes on to say that this policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.
32. As confirmed by the parties, the Council has an emerging Local Plan that has been submitted to the Secretary of State for Examination and includes both a policies map and proposed allocations towards meeting housing need. It is therefore required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing. This replaces the previous requirement to demonstrate a minimum of five years' worth of housing supply.
33. The appellant has referred me to an appeal² where it was identified that the Council could only demonstrate a 3.04 years housing land supply. The Council state that it can only demonstrate a 3.54 years housing land supply. Regardless of the exact shortfall, the shortfall in the Council's housing land supply means that paragraph 11d) of the Framework is engaged. Therefore, the policies which are most important for determining the application are out of date. However, although the application of paragraph 11d) renders the policies out of date, it does not mean that no weight should be given to them. It is therefore necessary to consider their consistency with the Framework and the weight that can be given to them. The site is not within a protected area.
34. LP Policies CT/1, CT/2 and ST/2 sets out principles for development in the countryside and outside development limits. They are more restrictive than the policies in the Framework as they do not allow for housing development outside of settlement limits. Therefore, they are not fully consistent with the Framework. The Council acknowledge that these policies have been overtaken by a changed housing need for the Borough and can no longer contribute to the delivery of a sufficient supply of homes. Accordingly, I attribute limited weight to the conflict with these policies.
35. CS Policy CS1 makes provision for at least 13,940 new homes between 2011 and 2028. In addition, the policy directs new development to larger settlements without restricting new development to within settlement

² APP/X2410/W/22/3304644

boundaries. Therefore, while the requirement identified by Policy CS1 is derived from an assessment of housing need which has been superseded, the Policy is consistent with the Framework.

36. CS Policies CS2 and CS11 relate to supporting and protecting the character of the landscape and countryside as well as respecting and enhancing the character of the area. Policy EV/1 of the LP states that the Council will seek to ensure a high standard of design in all new development. These policies are consistent with the Framework insofar as it expects development to be sympathetic to local character and history, including the surrounding built environment and landscape setting.
37. The dwelling is proposed to deliver a self-build house. The Council has confirmed that the appellant is on the self-build register. The benefits of custom or self-build housing are recognised by the Planning Practice Guidance finding that it helps to diversify the housing market and increase customer choice. The Framework also states that local planning authorities should seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing. It is not disputed that the Council is failing to meet its statutory duty with respect of the delivery of plots of self-build dwellings.
38. There is a dispute as to whether a condition attached to a decision would be an appropriate mechanism to secure the self-build house. A section 106 obligation is likely to be the most appropriate method to secure matters relating to the ownership of the self-build house for a period of three years as well as bind the requirement to successors in title should the property be sold in the future. As such, I am not convinced that a condition could achieve this.
39. However, an appeal decision has been provided where an Inspector did use a condition to secure self-build homes³. Even if I was to accept the suggested condition in light of the shortfall in the delivery of self-build sites, the delivery of a single self-build house would only make a modest contribution towards addressing this shortfall as well as the wider shortfall in housing delivery.
40. Notwithstanding the matters related to the self-build homes condition, the appeal referred to above related to a larger scheme to deliver up to 9 dwellings and the associated benefits that come with a larger scheme. It was also in a different local authority area. Each case must be assessed on its own merits and the circumstances of each case are specific to them.
41. A condition has been suggested by the appellant for a programme of wall repair and maintenance for the former Wanlip Hall wall that bounds part of the site. The wall is considered to be a non-designated heritage asset and the repair and maintenance of this wall would be a benefit. However, the repair and maintenance of this wall is not necessary to make this development acceptable in planning terms. If all other matters had been suitably addressed the appeal would not be dismissed if this condition was not included.
42. The proposal would remove redundant buildings and a Biodiversity Net Gain Assessment identified that the proposal would deliver biodiversity net gain of 50% in terms of habitat that can be achieved and a further 25% gain in

³ APP/F2415/W/22/3303898

hedgerow units. The delivery of this would be a benefit that attracts limited weight given the limited scale of the proposal.

43. Were I to agree the proposed development would be, or subject to the imposition of suitably worded planning conditions could, be made compliant with policies such as those in respect of the living conditions of neighbouring occupiers, highway safety and other matters not in dispute these would be neutral matters in the balance.
44. The proposal would deliver a single dwelling and the Framework states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. The proposed development would deliver economic, social and environmental benefits both during and after construction. Overall, I attribute moderate weight to the cumulative benefits of the scheme.
45. The Framework seeks to promote walking, cycling and public transport and for the planning system to actively manage patterns of growth in support of these objectives. Consequently, even with the shortfall in housing land supply, the adverse impact of the proposed dwelling on the spatial housing strategy of the Framework would attract significant weight and consequently this would significantly and demonstrably outweigh the benefits, when weighed against the policies of the Framework taken as a whole.
46. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR