



Appeal Decision

Site visit made on 1 May 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 MAY 2024

Appeal Ref: APP/X2410/W/23/3327868

23 Main Street, Woodthorpe, Loughborough LE12 8UG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Parkers of Leicester Limited against the decision of Charnwood Borough Council.
 - The application Ref is P/20/1390/2.
 - The development proposed is erection of 7 dwellings with associated landscaping and the creation of new vehicular access (outline with all matters reserved).
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of 7 dwellings with associated landscaping and the creation of new vehicular access (outline with all matters reserved) at 23 Main Street, Woodthorpe, Loughborough LE12 8UG in accordance with the terms of the application, Ref P/20/1390/2, and subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The application was submitted in outline form with all matters reserved and I have determined the appeal on that basis.
3. In the decision above I have used the description of development given on the appeal form and the Council's decision notice. That description has been agreed by the parties and is more concise than the one given on the application form.
4. During the course of the appeal, the appellant submitted a signed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990, which seeks to secure a scheme of biodiversity mitigation. The Council has had the opportunity to comment on the Unilateral Undertaking and I have taken the comments received into account.
5. The Council has identified that the examination hearings for the Draft Charnwood Local Plan (2021-2037) (Draft LP) have taken place and the emerging plan is moving towards the 'modifications' stage. Although it has been examined, I cannot be certain when the emerging plan is likely to be adopted or whether there will be any amendments to the policies. The Council has provided a detailed update on the weight it considers should be attributed to each of the draft policies. I give only moderate weight to the Draft LP policies in my consideration of the appeal proposal.
6. Following the refusal of planning permission, the revised National Planning Policy Framework (Framework) was published in December 2023. The parties

have had the opportunity to comment on the revised Framework as part of their appeal submissions.

Main Issues

7. The main issues are whether the development proposed would accord with the development plan strategy for the location of housing; and the effect of the proposal on the character and appearance of the area.

Reasons

Development plan strategy

8. The front part of the appeal site, around half of its overall depth, lies within the limits to development of Woodthorpe as defined by saved Policy ST/2 and the Proposals Map of the Borough of Charnwood Local Plan (adopted in 2004) (LP). The remainder of the site lies outside the limits to development and is therefore within the countryside for the purposes of the development plan. Land directly opposite the site is a proposed housing allocation, HA15, part of which benefits from planning permission for 120 dwellings granted in 2022.
9. Policy CS1 of the Charnwood Local Plan Core Strategy 2011-2028 (adopted in 2015) (CS) sets out the settlement strategy for the Borough. Woodthorpe is listed in Policy CS1 as one of the Small Villages and Hamlets. Within these small settlements the Council will safeguard services and facilities and respond positively to development that meets a specific local social or economic need. 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. The proposal would not meet a specific and identified local need. There is not an adopted neighbourhood plan for Woodthorpe and the proposal would not support sustainable business. As a result, the proposal would not accord with Policy CS1.
10. Although the appellant has suggested that Policy CS1 of the CS is silent in respect of development in the Small Villages and Hamlets that does not meet a local need, equally there is nothing within the policy to indicate support for open market housing development situated within these areas. Moreover, the explanatory text to the policy is clear that 'these villages are poor locations for new development and our strategy for the countryside will apply (for our approach to development in the countryside see chapter 7)'. Chapter 7 contains Policy CS11 of the CS which specifies the types of development opportunities but does not include housing development of the type proposed.
11. Saved Policy CT/1 of the LP seeks to strictly control new development lying outside the limits to development boundary, which would only be granted where it would meet one of four criteria. The proposal, for open market dwellings, would not meet any of the exceptions listed in Policy CT/1, as acknowledged by the appellant, and would therefore be contrary to this policy. It would also conflict with Policy CT/2 of the LP which relates to developments in the countryside that are acceptable in principle.
12. Policy DS1 of the Draft LP states that 18 homes are expected to be delivered within the Small Villages and Hamlets over the plan period. 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. The development of isolated homes in the countryside is supported in certain circumstances, such as an essential need for a rural worker or the re-use of a redundant or disused building. However, the site is within close proximity of other dwellings and therefore would not constitute the development of isolated homes. In any case, the proposal would not accord with any of the circumstances set out in Policy C1.
14. As the development would be located within an Area of Local Separation there would be some conflict with Policy EV3 of the Draft LP, which seeks to protect the open and undeveloped character of Areas of Local Separation. However, given the large undeveloped area of land to the west of the site and the scale of the development proposed, the proposal would retain the separate identities of Woodthorpe and Loughborough.
15. The Council considers that the proposal would result in dependence on use of the private car to access services and facilities and is not, therefore, a sustainable form of development. While I note that there are no services and facilities in Woodthorpe itself, the site is very close to Loughborough, as acknowledged by the Council. It is within reasonable walking and cycling distance of a range of services in Loughborough, including the supermarket located off Allendale Road, together with bus stops.
16. Taking the above factors into account, and bearing in mind paragraph 109 of the Framework, which recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, I consider that future occupiers of the development would not be wholly reliant on the use of private vehicles to access basic services and amenities. Therefore, the proposal would not be harmful with respect to accessibility.
17. Notwithstanding this, having regard to the location of part of the site outside the limits to development, I conclude that the proposal would not accord with the development plan strategy for the location of housing. Accordingly, the proposal be contrary to Policies CS1 and CS11 of the CS and saved Policies CT/1, CT/2 and ST/2 of the LP. It would also not comply with Policies C1, DS1 and EV3 of the Draft LP. These policies seek, amongst other matters, to restrict development in the rural areas.

Character and appearance

18. The appeal site comprises a parcel of land on the western side of Main Street within the hamlet of Woodthorpe. The application form refers to it as part of the garden of Rose Cottage with the remainder being a redundant farmyard which is heavily overgrown and unkempt. It is bordered by Rose Cottage and the rear garden of 21 Main Street to the north and by 43 and 49 Main Street to the south. The site frontage and northern and southern boundaries consist of mature hedgerows, while the western boundary comprises of tree planting. Access to the site is obtained via an existing gated access track off Main Street.
19. I note that both the Council and the appellant refer to Woodthorpe as a non-designated heritage asset. I have no reason to find otherwise, albeit I consider

it to be of a low level of local significance based on the evidence before me. Woodthorpe derives its significance from its architecture and history of farming activity on Main Street. The settlement has a dispersed character, particularly on the western side of Main Street with some open spaces between buildings. It is also noteworthy for the linear form of development with the buildings located off Main Street. The narrow nature of the street and the grass verges and the trees lining it, including those at the site frontage, contribute to the rural character of the settlement. Buildings predominantly comprise of historic farmsteads and cottages which generally front onto the street. There are also some bungalows, which are set further back from the roadside and are of more modern appearance.

20. Paragraph 209 of the Framework requires that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in determining the application and states that a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset.
21. A sizeable proportion of the site is hidden from view by the frontage hedgerow and the dense vegetation on the site boundaries. While the site appears to be of limited historic interest, it does make a positive contribution towards the rural character of Woodthorpe as an open space between built form and reflects the dispersed character of the settlement.
22. Although the proposal is in outline form and the details of the scheme are not for consideration at this stage, the development would erode the undeveloped qualities of the site. The loss of the gap between existing built form, which I have found to be a positive contributor, would have an adverse effect on the dispersed character of the settlement.
23. The development would likely be arranged around a courtyard or cul-de-sac with the dwellings being set back from rather than addressing Main Street. The appellant's Design Brief sets out some of the key requirements for the design of the development based on the underlying structure of the hamlet, which has developed in a linear form with buildings with long straight elevations and barn courtyards. The Design Brief envisages that the new dwellings would be grouped together to create a framed and enclosed courtyard behind Main Street which would reflect the barn courtyards elsewhere in Woodthorpe. Such a layout would reduce the effects of the development on the character and appearance of the area.
24. Moreover, the established hedgerow to the site frontage, the majority of which could be retained, and the trees and hedgerows around the other site boundaries, would provide a good level of screening and thus mitigate the visual effects of the proposal on the character of Main Street. The trees and hedgerows on the site boundaries and those just beyond it could be adequately protected during the construction phase and in the longer term. As the development would be relatively well screened its visual effects would be localised and there would not be a wider landscape impact.
25. Furthermore, I am mindful of the Council's Strategic Housing and Employment Land Availability Assessment 2020, which, whilst only a technical study, acknowledges that there are no irresolvable physical or environmental constraints to development of the appeal site.

26. The formation of the new access and provision of hard surfacing for the access road and driveways, together with gardens, boundary treatments and domestic paraphernalia associated with residential occupation, would have a limited and localised adverse effect on the character of the settlement. However, the Council would have control over the details of these matters as part of a subsequent reserved matters application. Although I acknowledge the Council's concern about the height of the proposed dwellings, the details of the scale and design of the dwellings are unknown at this outline stage.
27. The road widening and off-site highway works proposed in the feasibility plans would have the potential to alter the historic character of Main Street with consequential, albeit limited harm to its heritage significance. Therefore, these works would need to be sensitively handled as part of the reserved matters.
28. I conclude that the appeal proposal would result in some limited harm to the character and appearance of the area and the non-designated heritage asset. This would be contrary to Policies CS2 and CS11 of the CS, saved Policy EV/1 of the LP, Policies EV1 and DS5 of the Draft LP, and the Framework. Amongst other things, these policies seek to protect the character of the countryside and ensure that new development reinforces a sense of place and local distinctiveness. Although the proposal would cause harm to the non-designated heritage asset, in my view the level of harm would be less than substantial given the scale of the development and its localised impact.

Other Matters

29. Reynalls Farmhouse is a Grade II listed building situated some distance to the south of the site. In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have paid special regard to the desirability of preserving or enhancing the listed building or its setting or any features of special architectural or historic interest which it possesses. Given the distance between the site and the listed building, I agree with the Council that the proposed development would conserve this designated heritage asset.
30. I have no substantive evidence before me to show that the proposal would result in significant additional congestion to the local road network, parking problems or adversely affect road safety and I note the Council and Highway Authority have not objected to the proposal on grounds of highway safety.
31. While the development would likely give rise to a loss of biodiversity on the site, this would be adequately addressed through the biodiversity mitigation scheme to secure a net gain in biodiversity. On this basis, there would be no ecological reason to dismiss this appeal.
32. Given that the proposal is in outline form, precise details of the development, including its siting, layout and orientation, are not before me for consideration. However, on the basis of the size of the site and the likely spacing between the development and the neighbouring properties, I consider that a satisfactory layout and scale of development could be accommodated within the site which would protect the living conditions of the neighbouring occupants.
33. A number of other issues have been raised by interested parties which do not form part of the Council's reasons for refusal. Whilst I have taken these matters into consideration neither alone nor in combination do they amount to a reason to dismiss the appeal. Matters relating to tree and hedgerow

protection, surface water drainage, and the effects of construction traffic can be appropriately dealt with by way of conditions.

34. The planning obligations relating to biodiversity mitigation contained within the Section 106 agreement are necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development. I am satisfied that the obligations meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.

Planning Balance

35. The proposal would be contrary to the development plan strategy for the location of housing due to the location of the site beyond the limits to development. This would result in some conflict with Policy CS1 of the CS, saved Policies CT/1, CT/2 and ST/2 of the LP, and Policies C1 and DS1 of the Draft LP. Having regard to the proximity of the site to the services and facilities in Loughborough, future occupiers of the development would not be wholly reliant on the use of private motor vehicles.
36. I have found that there would be some minor harm to the character and appearance of the area and the non-designated heritage asset. Given that the harm to the significance of the non-designated heritage asset would be limited, the public benefits that would arise from the appeal scheme, as set out below, are sufficient to outweigh the minor harm identified.
37. As the Council has an emerging Local Plan that has been submitted for examination and includes both a policies map and proposed allocations towards meeting housing need, it is required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing in accordance with paragraph 226 and footnote 8 of Framework paragraph 11 d).
38. The Council states that it can demonstrate a four year housing land supply (4.27 years based on a four year supply over a five year requirement or 4.49 years when omitting the 5% buffer from the housing calculation). These figures have not been disputed by the appellant and I have no reason to find otherwise. Therefore, the Council's housing land supply position would not trigger the presumption in favour of sustainable development.
39. However, paragraph 11 d) still applies where the policies which are most important for determining the application are out-of-date. Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). I consider that the most important policies for the determination of this appeal are saved Policies CT/1, CT/2 and ST/2 of the LP and Policies CS1 and CS11 of the CS.
40. Saved Policies CT/1, CT/2 and ST/2 of the LP set out the principles for development in the countryside and outside the limits to development. They apply a more restrictive approach to housing development outside the settlement limits than the Framework. The Council acknowledge that these policies are no longer capable of meeting the Borough's current housing needs

and are not fully consistent with the Framework. Given this, I attribute limited weight to the conflict with these policies.

41. Policy CS1 of the CS 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 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.
42. Policy CS11 of the CS seeks to support and protect the landscape and countryside and requires development to reinforce a sense of place and local distinctiveness. This policy is consistent with the Framework where this requires development to be sympathetic to local character and history, including the surrounding built environment and landscape setting.
43. Overall, given that saved Policies CT/1, CT/2 and ST/2 are out of date, I conclude that the basket of policies most important for determining the appeal are out of date. The presumption in favour of sustainable development test set out in paragraph 11 d) of the Framework is therefore engaged. This provides that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
44. Although the Council can demonstrate a four-year supply of housing, the additional housing units would nevertheless make a positive contribution to the Borough's housing supply. Given the Government's objective of significantly boosting the supply of homes as set out in the Framework, I attach moderate positive weight to this benefit.
45. The development would also create employment opportunities during the construction phase and future occupiers would provide support to the local economy and community. These benefits attract moderate weight given the scale of the development proposed. Any biodiversity enhancements would be a limited benefit in the planning balance.
46. I find that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits outlined above. The development therefore benefits from the presumption in favour of sustainable development set out in the Framework. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The presumption in favour of sustainable development is a significant material consideration which justifies a decision other than in accordance with the development plan in this case.

Conditions

47. I have had regard to the conditions suggested by the Council. In imposing conditions, I have had regard to the relevant tests in the Framework, Planning Practice Guidance and of statute. In that context I have modified the wording of some of the conditions proposed for consistency and clarity.
48. Conditions specifying the reserved matters and the time limit for submission of the reserved matters and commencement of the development, are necessary to provide certainty.

49. As only outline planning permission is sought with all matters reserved, the only drawings that I have conditioned are the site location and site boundary plans which identify the extent of the site.
50. In the interests of the living conditions of residents and to protect the character and appearance of the area, conditions are necessary to ensure that the development accords with the principles set out in the Design Brief, and to secure details of the proposed ground levels, materials, noise mitigation, unit size, boundary treatment and tree and hedgerow retention.
51. I have imposed a pre-commencement condition relating to the submission of a Construction Traffic Management Plan which is reasonable and necessary in the interests of highway safety. Details of a surface water drainage scheme are required by condition to secure the satisfactory drainage of the site and prevent flooding. A condition has also been included to ensure that the off-site works have been completed prior to occupation of the dwellings to ensure satisfactory and safe access is provided.
52. In the interests of ensuring appropriate archaeological investigation and recording, a condition requiring a programme of archaeological work to be submitted and implemented is reasonable and necessary. A condition is necessary in order to ensure that the site is safe for future occupiers in relation to contamination.

Conclusion

53. For the reasons given above, I conclude that the appeal should be allowed subject to conditions.

M Ollerenshaw

INSPECTOR

Schedule of Conditions

- 1) Application(s) for approval of reserved matters shall be made within three years of the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan WTH01/005 A and Site Boundary Plan WTH01/006 A.
- 4) The details submitted pursuant to condition 2 above shall include:
 - Full details of existing and proposed ground levels and finished floor levels of all buildings relative to the proposed ground levels.
 - Development in accordance with the 'Key Requirements' 1 -10 inclusive set out in Section 4 of the Design Brief (Version C) October 2021, submitted with the application on 25.3.2022.
 - Details of the materials of construction including the surfacing of the access.
 - With the exception of removal required to create the access, the retention of the hedgerow forming the east boundary of the site on to Main Street to a height not less than 2m.
 - An Arboricultural Method Statement of the proposed layout to show how the development will protect and mitigate impacts on existing trees and hedges and include new tree planting.
 - Details of boundary treatment including planting.
 - A Noise Assessment Report to confirm mitigation measures to ensure internal and external noise guidelines can be achieved and over-heating does not occur. This Noise Assessment Report shall be accompanied by a Noise Mitigation Scheme which confirms necessary glazing and ventilation requirements on a plot-by-plot basis to control noise within habitable rooms and mitigation for external amenity areas to achieve acoustic standards detailed within BS 8233:2014.
 - All units in compliance with the Nationally Described Space Standards.

The development shall thereafter be carried out in accordance with the approved details.

- 5) No development shall take place until the existing trees and all existing hedgerows to be retained have been protected in accordance with a Tree and Hedgerow Protection Plan that has been submitted to and approved in writing by the local planning authority. The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the

purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground level within those areas shall not be altered, nor shall any excavations be made without the written consent of the local planning authority.

- 6) No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority, including as a minimum details of wheel washing facilities, vehicle parking facilities, and a timetable for their implementation. The approved Construction Traffic Management Plan shall be adhered to throughout the construction period for the development.
- 7) No development shall take place until a surface water drainage scheme and details of arrangements for its future management and maintenance has been submitted to and approved in writing by the local planning authority. Prior to the first occupation of each dwelling hereby approved, the drainage scheme to serve that dwelling shall be constructed and completed in accordance with the approved plans and shall be retained as such for the lifetime of the development.
- 8) No development shall take place until a scheme for the investigation, conservation and recording of any archaeological remains present within the site has been submitted to and approved in writing by the local planning authority. The development shall proceed only in accordance with the approved scheme.
- 9) If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 10) The works required to provide the access approved under condition 2 above, including any approved off-site works, shall be completed prior to the occupation of any dwellings hereby approved.

****End of Schedule****