



Appeal Decision

Site visit made on 26 February 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2024

Appeal Ref: APP/T2405/W/23/3328006

Land at 21 Billington Road East, Elmeſthorpe, Leicester LE9 7SB

- 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 Mr S James and Mrs P Taylor against the decision of Blaby District Council.
 - The application reference is 22/1104/OUT.
 - The development proposed is the demolition of exiting agricultural barns and erection of three dwellings, including associated access road and hardstanding.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The application was made in outline form with all matters reserved for subsequent consideration, and I have consequently treated the submitted drawings showing a proposed layout of the site as being for indicative purposes only.
3. The Government published revised versions of the National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the July 2021 version extant at the time the application was determined, and again on 19 December 2023. The Council's statement and the appellants' final comments were made in the light of the most recent amendments to the Framework, and it has not therefore been necessary for me to seek further comments from the main parties. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.
4. At the time the planning application was determined, the Council's officer report stated that the district had 5.75 years of housing land supply, though by the time its appeal statement was prepared that figure had fallen to 3.69 years. There is no dispute between the main parties that the local planning authority therefore cannot demonstrate a deliverable five-year supply of housing sites.

Main Issues

5. The main issues are:
 - Whether the appeal site would be an appropriate location for the proposed development, having regard to local and national planning policy;
 - Whether future occupiers of the proposed dwellings would have acceptable access to key services by a range of transport modes; and

- The effect of the proposed development on the character and appearance of the area.

Reasons

Location for development

6. The appeal site is an irregular-shaped parcel of farmland containing several agricultural barns or sheds of varying sizes and forms, within the countryside outside the village of Elmesthorpe. It sits at the eastern end of Billington Road East, a private no-through road which connects the site, via Bridle Path Road, to the public highway network at the B581 Station Road nearly 1km away to the north-west¹.
7. The proposed development is the demolition of the agricultural buildings, and the erection of three dwellings, along with an associated access road and hardstandings. Although the application was submitted in outline with all matters reserved, there are certain parameters which are clearly set out in the information before me, and which I have necessarily taken into account in determining the application. These include that the three dwellings would each have four or more bedrooms² and two storeys³, and that no alterations would be made to site access which would continue to be via Billington Road East as at present³. The appellants also explain that it is anticipated that the built footprint of the three dwellings would be "commensurate to that covered by the existing barns"³.
8. Policy CS1 of the 2013 Blaby Local Plan Core Strategy ("the BLPCS") sets out the strategy for locating new development in the district. It seeks to direct most development to locations within and adjoining the "Principal Urban Area" of Leicester, and then to the town of Blaby and four "larger central villages"; for three smaller categories of settlement, including "smaller villages" (of which Elmesthorpe is one) it states that lower levels of growth which "reflect the settlement's range of available services and facilities and public transport alternatives" will be allowed. It does not seek to direct development to areas within the countryside.
9. Policy CS5 of the BLPCS sets out the proposed housing distribution in the district, with a combined total minimum requirement of 80 dwellings over the 2006 to 2029 period across the four smaller villages, including Elmesthorpe. It does not direct housing growth either to the very smallest settlements ("hamlets and very small villages") or to areas within the countryside.
10. Policy CS18 of the BLPCS sets out the approach to development in the countryside; in broad terms, it indicates that planning permission will not be granted for built development, though it goes on to add that "limited small scale employment and leisure development", including dwellings essential for those needs, may be acceptable "subject to consideration of its impacts". Policy DM2 of the 2019 Blaby Local Plan (Delivery) DPD ("the DDPD") sets out criteria and requirements for development consistent with Policy CS18 in areas designated as countryside.

¹ Those parts of Billington Road East and Bridle Path Road have been included within the "red line" site boundary for the appeal scheme.

² Planning application form.

³ Section 3 of Planning Statement, Brown & Co, October 2022

11. The appeal site is well outside the defined settlement boundary of Elmesthorpe, and which the development plan defines as countryside. It is not therefore a location where the policies of the development plan are supportive of residential development.
12. National planning policy set out in the Framework seeks to ensure that housing in rural areas is located where it will enhance or maintain the vitality of rural communities (Paragraph 83). It goes on to state that the development of "isolated homes in the countryside" should be avoided, except when one or more of five particular circumstances apply (Paragraph 84).
13. I consider the matter of whether the proposed development would enhance or maintain the vitality of the rural community as part of the next main issue, as in this case such an assessment is substantially (albeit not entirely) linked to the availability of, and connections to, services and facilities in the area. In respect of the question of whether the proposal would lead to the development of "isolated homes", the appellants drew my attention to the *Braintree* judgment⁴, which considered what the Framework had to say about isolated homes in the countryside.
14. In *Braintree*, Lindblom LJ held that isolated is "not an unfamiliar word" which, "in its particular context in paragraph 55⁵ of the NPPF, [...] simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand". I also note Lindblom LJ's summary of national policy on the matter: "in short, settlements are the preferred location for new housing development in rural areas".
15. The appellants describe the appeal site as being located "on the edge" of Elmesthorpe, but as I have already explained it sits well outside the defined settlement boundary. I saw on my site visit that the "core" of the village (though it is not really a discernible centre as such) is the area of housing, essentially suburban in its nature, on Station Road and the roads off it close to the Badgers Mount Hotel. Heading towards the appeal site from there, the development pattern becomes one of discontinuous ribbon development along Station Road, which also extends into the first 200m or so of Bridle Path Road. Beyond this, the surroundings become much more open, with intermittent dwellings and agricultural buildings separated by extensive fields and paddocks. This pattern continues along the length of Billington Road East to the appeal site.
16. The overwhelming sense I got during my site visit, on the appeal site and along Billington Road East more generally, was one of remoteness and separation from Elmesthorpe. While the proposed dwellings would be near to the existing house No 21, the dispersed and intermittent nature of development along the road means that they could not in my view be said to be within, or closely associated with, a community or settlement. They would therefore be "isolated" in the Framework's terms, and in the light of the interpretation of national policy in *Braintree*. None of the "special" circumstances set out in the Framework applies in this case.

⁴ *Braintree DC v Secretary of State for Communities and Local Government*, [2018] EWCA Civ 610

⁵ As it was at the time, now paragraph 84.

17. I conclude that the appeal site would not be an appropriate location for the proposed development. The proposal would conflict with Policies CS1, CS5 and CS18 of the BLPCS and Policy DM2 of the DDPD, the principal relevant provisions of which I have set out above; there would also be conflict with Policy CS24 of the BLPCS, which defines and sets out the development plan's "presumption in favour of sustainable development. The proposal would also not accord with the provisions of Paragraph 84 of the Framework, which seeks to avoid the development of isolated homes in the countryside.
18. I find no specific conflict on this matter with Policy CS2 of the BLPCS which was also referred to in the Council's decision notice; that policy relates to the design of new development, and is therefore more relevant to the character and appearance issue which I consider below.

Access to services

19. Elvesthorpe offers a very limited range of services. Within one mile of the appeal site are Billington Lakes, a leisure facility, and the community facilities of St Mary's Church and Elvesthorpe Village Hall. Other facilities and services are further afield; the nearest shop identified by the appellants is approximately 1.1 miles from the site, while the nearest pub, bus stop and primary school are all around 1.3 miles away (though at different locations).
20. I accept that these facilities could be reached on foot or by cycling, but given the distances involved (as well as the need to cross the busy A47 to get to some of them) I would expect only a small proportion of trips to be made in that way. While Billington Road East and Bridle Path Road did not appear to me to be busy, they have neither footway nor lighting and so would not provide easily accessible or convenient walking routes into Elvesthorpe and beyond, especially at night or during inclement weather.
21. Opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and the Framework acknowledges that "development in one village may support services in a village nearby". However, in this case access to day-to-day services by walking, cycling or public transport would be poor, and residents of the development would be likely to be overwhelmingly dependent on the private car for access to shops, services and community facilities. Given this, it is also likely that future occupiers would often choose to drive to use clusters of shops and services in larger towns in the surrounding area, and therefore the development would be unlikely to make a significant contribution to maintaining the vitality of rural communities.
22. I conclude that future occupiers of the proposed dwellings would have acceptable access to key services by a range of transport modes. The proposal would therefore conflict with Policies CS10 and CS24 of the BLPCS which, among other things seek support sustainable development, including by locating new development in places where people can access services and facilities without reliance on the private car. Given the limited contribution the development would be likely to make either to supporting services in the nearby villages, or to maintaining the vitality of rural communities more generally, I also find that the proposal would not be supported by Paragraph 83 of the Framework.

Character and appearance

23. Billington Road East is part of the “Elmesthorpe Land Settlement Association Area”, which the evidence before me explains was part of a government scheme set up in 1935 to resettle unemployed workers from depressed industrial areas into rural areas by providing smallholdings, livestock and a cottage. Dwellings are generally detached, and well-separated from their neighbours within large spacious plots; outbuildings such as barns, sheds and glasshouses are reasonably commonplace, and the character and appearance of the area are predominantly rural and agricultural. The wider “Elmesthorpe Floodplain Landscape Character Area” is characterised by pastures divided by ditches and hedgerows. The appeal site itself is surrounded by open fields, though areas of dense hedgerows and trees limit some medium- and long-range views into the site.
24. As the planning application has been made in outline only with all matters reserved, the information which has been put before me is necessarily limited in matters of appearance, scale, and landscaping, and I recognise that the scheme could be laid out in a different manner to that shown on the submitted illustrative drawings. With four or more bedrooms as proposed, however, the three dwellings would be large, and each would occupy a large proportion of its plot when compared to the prevailing widely-spaced development along Billington Road East. There would also be large areas of hard surfaces, for the minimum of three car parking spaces per dwelling which the submitted Planning Statement indicates would be provided.
25. The existing buildings within the site are not in a good condition, and their removal would not in itself be harmful to the character or appearance of the area. However, barns and suchlike are an expected part of the rural environment, and their presence reflects the area’s agricultural character. Notwithstanding the outline nature of the scheme, the proposal for three relatively large and closely-spaced dwellings would be likely to introduce an urbanising, or at least suburbanising, form of development. It would have a greater visual impact on the appearance of the rural area than the existing use and buildings, whether seen from Billington Road East, the surrounding fields, or from the railway line which passes on an embankment a short way to the south of the site. This would be at odds with the area’s rural and agricultural nature, and would be likely to be incongruous in its countryside setting.
26. The proposed development would therefore conflict with Policies CS2 and CS18 of the BLPCS and Policy DM2 of the DDPD, which among other things seek to ensure that new development respects distinctive local character, including landscape, and forms of development. There would also be conflict with the provisions of the Framework, notably Paragraph 135 which seeks to ensure that development is sympathetic to local character and history, and Paragraph 180 which recognises the intrinsic character and beauty of the countryside.

Other Matters

27. The appellants have referred to a fallback position arising from applications for prior approval under Part 3 Class Q of the General Permitted Development Order⁶, for the conversion of two of the existing barns on the site to form three

⁶ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

dwelling⁷, and to caselaw on the matter⁸. On the basis of all the evidence before me, it appears that there is a very real prospect of those conversions being implemented in the event of my dismissing this appeal.

28. The Class Q permitted development rights could lead to the creation of three modestly-sized dwellings within the envelope of two existing agricultural buildings. The appeal scheme, on the other hand, would lead to the creation of three new buildings, with at least twice as many bedrooms and a larger total population as a consequence. Given the poor connections to local services, more residents living on the site would be likely to mean a commensurately greater number of car journeys to and from shops, schools and other facilities, with associated greater environmental harm. The proposal to introduce new buildings would also result in harm to the character and appearance of the area as I have described above, and this would be less likely to arise from the conversion of existing buildings. On this matter, I conclude that the fallback scheme would be less harmful than the appeal proposal, and it does not therefore carry significant weight in favour of the appeal scheme.
29. The Council referred to the potential future development of the Hinckley Rail Freight Interchange a short distance to the south, and the potential that this may have significant adverse effects on living conditions for future occupiers. However, there is very limited information about this scheme before me, and on the evidence before me no certainty at present that it will proceed. It has not therefore been a significant factor in my determination of this appeal.

Planning Balance and Conclusion

30. In the light of the Council's housing land supply position which I have described above, the "tilted balance" set out in Paragraph 11(d) of the Framework is engaged. This means that planning 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.
31. The Framework seeks to significantly boost the supply of housing, including with an appropriate mix of housing types for the local community. The proposed development would contribute to the supply of housing in the area, and there would be economic benefits arising in the short term from the construction of the dwellings. Future occupiers would potentially also play a part in supporting the viability of services in local villages, though for the reasons I have set out above this may be limited. I also note, as set in the Council's evidence, that the need in the area for 2-bedroom market homes (as would be provided by the fallback scheme) is twice that for homes with four or more bedrooms, so the proposed housing mix would not appear to be that well-matched to the local community's requirements. In any event, given the very small scale of the scheme, any benefits arising from it would be modest in total, and I therefore give them moderate weight in the overall planning balance.
32. Set against this, I have found that the proposal would lead to the development of isolated dwellings in the countryside, would provide future occupiers with poor access to shops and services by a range of transport options, and would

⁷ LPA Refs 21/1506/CLASSQ, for the conversion of what is described in this appeal as "Existing Barn A" to two two-bedroom dwellings, and 21/1507/CLASSQ, for the conversion of "Barn D" to one two-bedroom dwelling.

⁸ *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314

cause harm to the character and appearance of the countryside. The development would be contrary to the specific provisions of Paragraphs 83, 84, 135 and 180 of the Framework in these respects. I give these harms substantial weight in the overall balance.

33. Overall, I consider that the harm from the development would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. Given the disagreement between the two main parties on the matter, in light of the other harm I have found I note here that I would have reached the same conclusion even had I not found the proposal to be for “isolated” dwellings as described in paragraph 16 above. The proposal would not amount to sustainable development in the terms set out in the Framework and, having applied the balance set out in Paragraph 11 d)ii of the Framework, the presumption in favour of granting permission does not apply.
34. I have also found that there would be conflict with Policies CS1, CS2, CS5, CS10, CS18 and CS24 of the BLPCS, and with Policy DM2 of the DPDD. Policies CS1, CS5 and CS18 are more restrictive than the Framework in terms of the type and location of development that they direct to, or permit in, the countryside. Given the housing land supply position, I consider that those three policies are out-of-date in the Framework’s terms, and I afford the proposal’s conflict with them limited weight in the overall planning balance. Nevertheless, conflict with these policies adds weight to my conclusion that the appeal should be dismissed, and the proposal would conflict with the development plan as a whole.
35. Section 38(6) of the Planning & Compulsory Purchase Act 1990 and the Framework state that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. There are no material considerations, including those of the Framework, that indicate the proposal should be determined other than in accordance with the development plan.
55. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector