



Appeal Decision

Site visit made on 12 March 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2024

Appeal Ref: APP/T2405/W/23/3330870

Church View Farm, Cooks Lane, Sapcote LE9 4FE

- 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 C Jolley against the decision of Blaby District Council.
 - The application Ref is 21/0499/OUT.
 - The development proposed is a single two-storey detached dwelling with vehicle access and parking.
-

Decision

1. The appeal is allowed and planning permission is granted for a single, two-storey detached dwelling with vehicle access and parking at Church View Farm, Cooks Lane, Sapcote LE9 4FE in accordance with the terms of the application, Ref 21/0499/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the Council issued its decision notice the National Planning Policy Framework (the Framework) was updated in December 2023. The parties have been given the opportunity to comment on the updates to the Framework and these have been taken into consideration.
3. The application was made in outline with all matters reserved except, access, layout and scale.

Main Issues

4. The main issues are whether the proposed development would be in a suitable location having regard to local policies concerned with housing in rural areas; and whether the proposal would preserve the setting of the Grade II listed Church of All Saints¹.

Reasons

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

5. Policy CS1 of The Local Plan (Core Strategy) Development Plan Document (CS) adopted 2013, states that lower levels of growth will be allowed in Medium Central Villages where the scale of development will reflect the settlement's range of available services and facilities and public transport alternatives.

¹ List Entry Number 1177924

6. CS Policy CS5 identifies that Sapcote is a Medium Central Village. The policy sets out the housing requirement for the Medium Central Villages which is 815 over the plan period. The Council identified that this requirement has already been exceeded. However, Policy CS5 identifies that provision will be made for at least the housing requirement figure for each settlement. Furthermore, the housing provision for Sapcote set out in The Fosse Villages Neighbourhood Plan (NP), made 2021, is a 'minimum'. Accordingly, I will assess the proposal on its own merits against the other criteria set out in the policies.
7. In this regard, the CS generally provides the strategic policies for the local authority area whilst the Local Plan (Delivery) Development Plan Document (LP), adopted 2019, generally contains the non-strategic policies. The Policies Map was prepared alongside the LP and is not identified as a strategic policy. Development Management Policy 1 from the LP relates to development within the settlement boundaries, as set out in the Policies Map. The appeal site is within the settlement boundary for Sapcote for the purposes of this policy.
8. However, the NP now forms part of the statutory development plan. A Policy Map was prepared for Sapcote within the NP and the site was not included within the Limits to Built Development. Policy FV8 allows proposals for housing development outside of the Limits to Built Development, as long as certain criteria are met. Of relevance to the appeal proposal is Category B, which refers to small scale housing in the most sustainable locations, assessed against the need to retain the countryside.
9. The Framework² states that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently. Given that Development Management Policy 1 is a non-strategic policy, then Policy FV8 within the NP takes precedence over the LP. I shall therefore assess the proposal against the requirements of Policy FV8 below.
10. A single dwelling in this location would be small scale with regard to the size of Sapcote. Sapcote contains only a limited range of employment opportunities, services and facilities. It has an infrequent bus service, but the appeal site is located a short distance from the services and facilities in Sapcote along pavements that have street lighting. This would ensure that the walking route to services and facilities would be safe and suitable throughout the year.
11. However, Sapcote is also located close to Stoney Stanton which is identified as the largest and best served of the villages in the south of the District of Blaby in the CS. Given the close relationship between Sapcote and Stoney Stanton including the bus services between the two and the connecting road that has a pavement with street lighting providing safe pedestrian access, development at the appeal site would support services in Stoney Stanton and vice versa. I therefore consider that the site is one of the most sustainable locations with regard to the provisions of Policy FV8.
12. To the east of the appeal site is a group of two storey dwellings and to the west is a single storey stable block. There is a road that extends along the rear of

² Paragraph 30

the site, as well as to the houses to the east and the stable block to the west. These houses to the east are within the Limits to Built Development and the boundary continues further to the east. As such, the site sits within a group of buildings that are located on the same side of this road that visually and physically defines the edge of the built form for Sapcote in this location. There is a field between the appeal site and Cooks Lane within the village, but this appears to be the school field and as such, this forms part of the built form within the village.

13. Consequently, because the site is located next to other development within the Limits to Built Development the proposal would be seen alongside the built form at the edge of the settlement. When viewed from the Public Right of Way (PRoW) to the south of the site, the proposed dwelling would be viewed alongside the other development nearby and would not extend the built form further into the countryside.
14. To the rear of the site is open countryside defined by large open fields bound by hedges and the appeal site is not typical of this given its limited size and because it is physically and visually divorced from them by the road that bounds the site and nearby buildings. The trees and hedges that bound part of the site positively contribute to the character and appearance of this edge of settlement location and would be retained by the proposal. Given that the proposed dwelling would not extend the built form of the village beyond the bound road, the countryside in this location would be retained. Consequently, the proposal would accord with Category B of NP Policy FV8, and by extension with Policy FV7 which cross-refers to Policy FV8.
15. The proposal is for a single dwelling and that scale of development would reflect Sapcote's range of available services and facilities and public transport alternatives in accordance with CS Policy CS1. Development in Sapcote would also accord with the distribution of housing set out in Policy CS5. In light of my conclusions above, development of the site, whilst in the countryside would not have a significantly adverse effect on the appearance or character of the landscape. As such, the scheme would accord with Policy CS18.
16. The proposal would also be in accordance with paragraph 83 of the Framework, insofar as it states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements development in one village may support services in a village nearby.
17. Therefore, the proposed development would be in a suitable location having regard to local policies concerned with housing in rural areas and would accord with the relevant development plan policies.

Whether the proposal would preserve the setting of the Grade II listed Church of All Saints

18. 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. This requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Framework advises that when considering the impact

of development on the significance of designated heritage assets, great weight should be given to their conservation.

19. The Stanley Burrough's Almshouses and South View Farmhouse are two Grade II listed buildings located near to the site. However, given the intervening buildings between them and the site, the proposal would not affect their settings and they would subsequently be preserved.
20. The Church of All Saints is a Grade II listed building that was built in the mid 14th and 15th centuries and restored in 1843. The west tower with spire, nave with clerestorey north aisle, north porch, vestry and organ chamber and chancel are important architectural features that positively contribute to the architectural significance of the listed building.
21. Given the scale of the church it dominates the area and is a focal point in this part of the village. The immediate setting around the church is the raised graveyard that is bound by a stone wall. The church is surrounded by residential development as well as other facilities. However, the church is located towards the edge of the settlement and views of the church, in particular the spire, are appreciated from several viewpoints in the countryside to the south of Sapcote, including from the PRow. It is a key landmark feature for Sapcote when viewed from the south, in particular.
22. In this regard the car park has urbanised this view towards the countryside from the church although the vehicles are of limited scale and are transient features, ensuring views out towards the countryside are not screened from the church, thus limiting the harm caused to the setting. In addition, given the limited height of the trees, and the single storey nature of the stable block, caravan and the school, there are views over these towards the countryside beyond. The appeal site lies within this area to the south, between the two-storey houses to the east and the stable block and school to the west with the school car park located in front of it.
23. Therefore, whilst the setting of the church is bound by development, given the limited scale of development to the south of Sapcote, as well as the raised setting of the church, the views towards the south, including the appeal site, forms part of its relationship with the countryside and thus its historic rural setting. Accordingly, the views towards the site to the south of Sapcote make a positive contribution towards the setting of the listed building.
24. The application was made in outline; however, scale was not a reserved matter. The erection of a two-storey dwelling close to the other two storey houses would compete with this view of the church from the countryside to the south.
25. However, the house would be lower in scale than the two storey houses to the east and step down in scale between those houses and the stable block. Furthermore, given the significant scale of the church and particularly the spire, the proposed dwelling would appear subordinate alongside it and would not harmfully detract from the church as a key landmark feature for Sapcote when viewed from the south. Furthermore, by siting the dwelling close to the edge of the site, a gap would remain between the dwelling and the nearby stable block which would ensure the development would not harmfully enclose views of the church, alongside the existing development. Consequently, the

positive contribution this setting makes towards the significance of the heritage asset would not be harmed by the proposal.

26. When viewed from the church the proposed dwelling would be located further away from it than other development along Cooks Lane which already forms part of the church's setting. The trees that bound the site would also partially screen views of the dwelling from the church. The scale and siting of the dwelling would limit the enclosing effect of the proposal upon views of the countryside from the church. Furthermore, its limited scale would allow views over the building towards the countryside, similar to other development around the appeal site. This alongside the gap that would be retained between the dwelling and the stable block would ensure the historic rural setting of the church and the positive contribution this setting makes towards its significance would not be harmed by the proposal.
27. Therefore, the proposal would preserve the setting of the Grade II listed Church of All Saints. Consequently, it would accord with Policy CS20 of the CS and LP Policy DM12. The proposal would also accord with the Framework. These seek, amongst other matters, for development to avoid harm to the significance of historic sites, buildings or areas, including their setting.

Other Matters

28. Given the distance between the proposed dwelling and the nearby properties as well as the siting and scale of the proposal, it would not harmfully enclose the outlook from nearby dwellings. For similar reasons it would not lead to a loss of privacy or light to surrounding occupiers.
29. The school field is an area of open space, and it is not an area where privacy is necessary to preserve the living conditions of the school children using it.
30. The proposal is for a single dwelling and whilst there are already several properties that share this access, the additional movements from one additional household would be very limited. The Local Highways Authority (LHA) also did not object to the scheme, subject to the imposition of conditions in the interest of highway safety. Based on the evidence before me I see no reason to disagree and find that the proposal would not have an unacceptable impact on highway safety.
31. Each case must be determined on its own merits and any future applications will have to be determined in accordance with the development plan, unless material considerations indicate otherwise. As such, this decision would not set a precedent for future applications and appeals.
32. The site is not within the Green Belt and as such Green Belt policies do not apply.
33. While there may have been concerns regarding the behaviour of the appellant or the builder during the construction of other dwellings nearby, in reaching my decision I have been concerned only with the planning merits of this case.

Conditions

34. I have considered the planning conditions suggested by the council and the appellant having regard to the tests set out in the Framework. Where appropriate, I have amended the wording to ensure they are reasonable given

the scale of the development and site context and to ensure that they meet all other Framework tests for conditions.

35. Further to the statutory commencement conditions for an outline permission [1 and 2], it is necessary in the interest of certainty that the development is carried out in accordance with the approved drawings [4] and that the remaining reserved matters are submitted [3].
36. Given that the application was made in outline with some matters reserved it is necessary that conditions 1, 2 and 3 are pre-commencement to ensure a satisfactory form of development is secured as permission is only given in principle.
37. A condition requiring that all existing trees, shrubs or hedges that are to be retained are protected during construction is necessary in the interest of the character and appearance of the area as well as in the interest of local biodiversity [5]. It is necessary for this condition to be pre-commencement to ensure the trees, shrubs and hedges are protected before works that could affect them begin.
38. A condition requiring the materials to be used in the external surfaces of the development are approved is necessary in the interest of the character and appearance of the area [6].
39. An additional condition was suggested by the LHA that was not included by the Council in its suggested conditions. It was determined by the LHA that a condition requiring the access to be bound and have a width of 5.1 meters was necessary in the interest of highway safety. Based on the evidence before me and given the proposed residential use of the site and because the proposed access provides the vehicular access onto a public highway, I see no reason to disagree with the LHA and have included that suggested condition [7] in the interest of highway safety.
40. It is also necessary in the interest of highway safety that the visibility splays are provided at the site access as well as ensuring no surface water drains onto the public highway and that parking and turning facilities are provided on site [8, 9 and 10].
41. Whilst landscaping is a reserved matter it would be necessary in the interest of the character and appearance of the area to include a condition requiring that the approved landscaping scheme is carried out and if any trees, hedges, shrubs or plants die within a 5-year period of completion that they are replaced [11].
42. Given that the site is located near to residential dwellings it would be necessary in the interest of the surrounding occupiers living conditions that construction works are only undertaken during specific times of the day [12].
43. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Given the sites location within the setting of the Grade II listed Church of All Saints this would provide clear justification to restrict permitted development rights to extend the property as it could result in substantive alterations being made to the dwelling which could harm the setting of a heritage asset [13]. Given that the permitted development rights would be

restricted, it would not be necessary to state that permission must be sought from the Council for any enlargements or extensions.

44. However, given the limited scale of any additional buildings that could be built using the dwellings permitted development rights as well as the distance between the site and the heritage asset they would be unlikely to harmfully affect the setting of the listed building. Furthermore, the site is modest in size with space around the dwelling to erect buildings without overdeveloping it. As such this would not provide clear justification to restrict the right to erect them.

Conclusion

45. The proposal complies with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

G Sibley

INSPECTOR

Schedule of Conditions

- 1) Application(s) for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the appearance and landscaping, (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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved drawings: Block and Site Location Plans DWG No 4703/01 Revision C Redesign 20/04/2023.
- 5) All the trees, shrubs and hedges to be retained on the site and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made. No fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 6) No above ground construction works shall take place until details of the materials to be used on the external elevations and roof have been submitted to and agreed in writing by the local planning authority. Such materials as may be agreed shall be those used in the development and fully applied prior to the first occupation of the dwelling hereby permitted.
- 7) Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 5.1 metres, and shall be surfaced in a bound material for a minimum of 5 metres from the highway boundary. The access shall be provided prior to the first occupation of the dwelling hereby permitted and shall be so maintained at all times.
- 8) The dwelling hereby permitted shall not be first occupied until such time as vehicular visibility splays of 2.4 metres by 43 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 9) The dwelling hereby permitted shall not be first occupied until such time as site drainage details have been submitted to and approved in writing by the local planning authority. The development shall be implemented in

accordance with the approved details and surface water shall not drain into the public highway and thereafter shall be so maintained.

- 10) The dwelling hereby permitted shall not be first occupied until such time as the parking and turning facilities have been implemented in accordance with Block and Location Plans DWG No 4703/01 Revision C Redesign 20/04/2023. Thereafter the onsite parking provision shall be so maintained in perpetuity.
- 11) The approved landscaping scheme shall be carried out within one year of either the first occupation of the dwelling or completion of the development, whichever is the sooner; and any trees, hedges, shrubs or plants which within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) During the period of construction, no works, or deliveries to the site, shall take place outside the hours of 07:30–19:00 Monday to Friday, 08:00–13.00 on Saturdays. No work, or deliveries to the site, shall take place on Sundays, Bank and Public holidays (other than in an emergency).
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement or extension of the dwelling hereby permitted shall be carried out.

End of Schedule