



Appeal Decision

Site visit made on 30 April 2024 by Darren Ellis MPlan MRTPI

Decision by F Wilkinson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2024

Appeal Ref: APP/G2435/W/24/3336519

Parcel of land at Main Street, Swannington

Easting (x): 441679, Northing (y): 316717

- 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 Boam against the decision of North West Leicestershire District Council.
 - The application reference is 23/00740/OUT.
 - The development proposed is the erection of 5 no Self Build Dwellings (Outline Application with all matters reserved except for access).
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters and Main Issue

3. I have used the description of development from the appeal form, which is more precise than the description on the application form.
4. The application was submitted in outline with all matters except for access reserved for subsequent approval. Subsequently I have assessed the appeal proposal on that basis and have considered the submitted plans as indicative except where they relate to access.
5. The appellant seeks to construct self-build dwellings. However, no completed planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended) has been provided to legally secure the new dwellings as self-build houses despite the length of time during the application process and before the appeal was submitted.
6. According to the Planning Practice Guidance¹, a positively worded condition which requires the applicant to enter into a S106 agreement is unlikely to pass the test of enforceability. While it may be appropriate in exceptional circumstances for a negatively worded condition requiring a S106 agreement before certain development can commence, it has not been demonstrated that

¹ Planning Practice Guidance Paragraph 010: ID 21a-010-20190723

an exceptional circumstance exists, such as clear evidence that the delivery of the development would otherwise be at serious risk.

7. I am therefore not convinced that a condition could be used to secure a S106 agreement. Consequently, there would be no mechanism in place to ensure that the new properties would be self-build dwellings. As such, I have to assess the proposed dwellings as market housing and the Council's self-build shortfall subsequently has no bearing on this appeal.
8. The main issue therefore is whether the site is a suitable location for housing, having regard to the development strategy for the area and to the character and appearance of the countryside.

Reasons for the Recommendation

9. The appeal site comprises an open field between two built-up areas of Swannington and is situated outside the settlement boundary, and therefore is in open countryside. The appeal site, which is grassed, has an open appearance with woodland and open fields to the rear, and it currently contributes positively to the semi-rural character of the area.
10. Policy S2 of the North West Leicestershire Local Plan (2021) (LP) sets out the settlement hierarchy of the area and states that development should be appropriate to the scale and character of the settlement. LP Policy S3 sets out the exceptions where development in the countryside would be supported. Both parties agree that the proposal would not meet any of these exceptions. Policy H2 of the Swannington Parish Neighbourhood Plan (2023) (NP) requires development in the countryside to be controlled or supported in line with local and national strategic planning policies.
11. The construction of five dwellings on the site, regardless of scale and appearance, would reduce the open and rural qualities of the site. Both parties agree that the proposal would cause harm through the introduction of a suburban form to the site and, based on the evidence before me and from what I saw on my site visit, I have no reason to find otherwise. However, given the residential nature of the adjacent built-up areas, I afford moderate weight to this harm.
12. My attention has been drawn to an appeal decision at a site in Woodville for self-build housing outside the settlement boundary². However, in this appeal the Inspector found no harm to the character and appearance of the surrounding area, which is not the case in the appeal before me. Furthermore, as stated by the appellant, the appeal draws attention to the securing of custom and self-build houses via a planning obligation. As such, I am not convinced that this appeal is directly comparable to the scheme before me.
13. Consequently, the proposal would fail to meet any exception for development in the countryside and would cause moderate harm to the character and appearance of the countryside. The proposal would therefore be contrary to LP Policies S2 and S3 and NP Policy H2.

² Appeal ref. APP/G2435/W/18/3214451

Other Matters

14. The provision of five additional units would make a small meaningful difference to the existing supply of housing. Economic advantages would arise from the construction and occupation of the dwellings, although these would be limited by the scale of the scheme, and some would only be temporary. I therefore ascribe moderate weight to these matters.

Conclusion

15. The site is not a suitable location for market housing, having regard to the development strategy for the area and the character and appearance of the countryside. There are no other material considerations before me, including the approach of the National Planning Policy Framework, which indicate that a decision should be made other than in accordance with the development plan. I therefore recommend that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

F Wilkinson

INSPECTOR