



Appeal Decision

Site visit made on 12 August 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/G2435/W/24/3343890

72 Main Street, Osgathorpe, Leicestershire LE12 9TA

- 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 Miss Grace Beesley against the decision of North West Leicestershire District Council.
 - The application Ref is 24/00233/OUT.
 - The development proposed is for the erection of a self build detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a self build detached dwelling at 72 Main Street, Osgathorpe, Leicestershire LE12 9TA in accordance with the terms of the application, Ref 24/00233/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application sought outline planning permission with all matters reserved. I have considered the appeal on this basis and have treated any details in relation to the reserved matters as illustrative.
3. A Unilateral Undertaking (UU) was submitted during the course of the appeal, which seeks to secure the self-build status of the proposed dwelling. This matter will be dealt with later in my decision.

Main Issue

4. The main issue is whether the location of the development would be appropriate for housing having regard to the spatial strategy of the development plan with particular regard to the accessibility of the site.

Reasons

5. The development plan for the area is the North West Leicestershire Local Plan (2021) (LP). Policy S2 of the LP sets out the settlement hierarchy for the district, with growth being directed to settlements higher up the hierarchy than those lower down.
6. A principal aim is to direct growth to settlements with the greater access to a range of services and facilities, including accessibility by public transport and non-car modes. This is consistent with the objective of the National Planning Policy Framework (the Framework) to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

7. Outside of the settlements, in designated countryside, development is strictly controlled by Policy S3 of the LP, bar a number of exceptions, and subject to those exceptions meeting a number of criteria. Only if a scheme falls within one of the exceptions, does the subsequent criteria apply.
8. The appeal site comprises an open area within the settlement of Osgathorpe, surrounded by existing residential properties and contained by mature trees and hedging. Osgathorpe is identified as a 'small village', towards the bottom of the settlement hierarchy. These are defined as having very limited services and facilities where development is restricted to conversions of existing buildings, redevelopment of previously developed land or affordable housing in accordance with Policy H5 of the LP. As the appeal site is undeveloped and the proposal is not for affordable housing, the proposal would be contrary to Policy S2 of the LP. Moreover, as the proposal does not fall within any of the exceptions listed in Policy S3, the scheme would be contrary to this policy.
9. Turning to accessibility, Osgathorpe appears to have very limited services and facilities; there is a church and recreation ground which are within walking distance, albeit a small section of the route would have no pavements. The Council set out that because of the limited services, future occupiers would be reliant on a car to access basic services for day-to-day needs. The Council refer to the Leicestershire County Council Highways Design Guide Document which sets out that development should be within a 10 minute walk to a village centre offering access to key services. However, this constitutes only guidance, and is not a prescriptive requirement of development plan policy.
10. The site is directly adjacent to a footway with connections to public rights of way. Moreover, a map provided by the appellant shows the village being sited in close proximity to the national cycle network which links to Thringstone and Coalville, both principal towns in the settlement hierarchy. Whilst the public rights of way may present challenging terrain for some users and cycling may not be an attractive option for all potential future occupiers, there is a bus stop located directly in front of the appeal site. This provides a, not infrequent, two-hourly service Monday to Saturday to a number of surrounding centres, including both Loughborough and Ashby-de-la-Zouch. These would have a large variety of services and facilities and would be accessible for all future occupiers. In this regard, future occupiers would not be wholly reliant on the use of a private car.
11. I am also mindful that Paragraph 109 of the Framework indicates that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision-making. Considering the above points, I find that the site would be accessible via a range of sustainable transport modes.
12. For the reasons set out above, I conclude that the site would not be suitable for the development having regard to the spatial strategy of the development plan. The proposal would therefore conflict with Policy S2 and Policy S3 of the LP read together. However, given that the location would be acceptable with regard to the accessibility of services and facilities, the weight I attribute to the conflict with the spatial strategy is tempered in this case.

Other Matters

13. My attention has been drawn by the Council to several recently dismissed appeal decisions. In the appeal at Chapel Lane¹, it appears that there was drainage issues, there was no footway adjacent to the development and harm was found to character and appearance. In the Loughborough Road appeal², paragraph 14 of the Framework was engaged and harm found to character and appearance. The circumstances in these cases are therefore not the same.
14. I have very limited information before me on the Coleorton³ and Belton⁴ appeals. Notwithstanding this, each appeal is determined on its own planning merits and the weight to be applied is a matter of planning judgement for the decision-maker, based upon the issues and site specific circumstances in any one given case.

Planning Balance

15. There is clear conflict with the spatial strategy under Policy S2 and S3 drawing the proposal into conflict with the development plan read as a whole. However, as previously set out, given that the appeal site is sufficiently accessible via a range of sustainable travel modes, I attach limited weight to this conflict.
16. The proposal is for a self-build dwelling. The Self-build and Custom Housebuilding Act 2015 (as amended) ('the Act') places a statutory duty on the Council to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand. The Council acknowledges that during the current base period of 31 October 2023 to 30 October 2024, there is a shortfall of 29 self-build plots, this is a notable increase on the previous year where there was a shortfall of 21 self-build plots. The current shortfall represents a significant unmet need.
17. As both parties have noted, the development plan does not have any policies on self-build. Paragraph 11 d) of the Framework advises that where there are no relevant development plan policies, permission should be granted, unless i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. As the appeal site does not fall within any areas identified within paragraph 11d)i, it is paragraph 11 d)ii which applies in this case.
18. The appeal scheme, whilst only for 1 dwelling, would make a positive contribution to addressing the significant shortfall in self-build plots, particularly considering the increasing shortfall of such plots and the appellant's compelling evidence in relation to the lack of multiplot schemes receiving approval. Mindful that there is no current plan led solution to addressing this shortfall, I attribute the benefit of the provision of a self-build dwelling moderate weight.

¹ APP/G2435/W/23/3324219

² APP/G2435/W/24/3336951

³ APP/G2435/W/23/3324297

⁴ APP/G2435/W/23/3330838

19. The appeal site is adequately accessible via a range of sustainable transport options; thus, future occupants would not be wholly reliant on the use of a private car. There would also be some economic benefits, both short term in relation to the construction of the dwelling and longer term with future occupiers spending in the local economy, supporting nearby services and facilities.
20. Drawing the above points together, I find that in this particular case, the harm arising from the conflict with the development plan to be limited and the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development applies and this indicates that permission should be granted.

Planning Obligation

21. A Unilateral Undertaking (UU) pursuant to Section 106 of the Act is before me, dated 29 August 2024. The UU contain a provision related to self-build and custom build housing. There is no dispute between the parties relating to the provisions of the UU.
22. I am satisfied that its content is fit for purpose and secures the self-build nature of the proposal. With reference to Paragraph 57 of the Framework, the UU is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Conditions

23. The Council suggested a number of conditions, which I have considered in the light of the advice in the Framework and Planning Practice Guidance. In some cases, I have edited the suggested condition for clarity and enforceability.
24. In the interests of certainty and clarity, I have imposed conditions 1,2, 3 and 4 relating to the approval of reserved matters, the commencement of development as well as the approved plans.
25. Condition 5 is necessary for reasons relating to the safeguarding of the character and appearance of the site and area.
26. A condition requiring Tree 30 to be inspected for bat roosts prior to soft felling is not necessary at this stage and would be for future reserved matters.
27. I have deemed a legal agreement to be the most appropriate method in order to secure the self-build status of the proposal, as such the suggested self-build condition is not necessary.
28. A pre-commencement condition requiring tree protection measures to be set out is not necessary at this stage as the application is outline with all matters reserved and as such no development can currently take place. This would be for consideration at the appropriate reserved matters stage.

Conclusion

29. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. Accordingly, I conclude that the appeal should be allowed.

T Bennett

INSPECTOR

****Schedule of Conditions****

1. 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.
2. Application 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.
3. 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.
4. Development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan dated May 2024.
5. When application is made for approval of the reserved matters that application shall include details of the finished ground and floor levels of the dwelling.