



Appeal Decision

Site visit made on 15 September 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/P3040/W/24/3345729

Willow House, Melton Road, Hickling Pastures, Nottinghamshire LE14 3QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Dhaliwal against the decision of Rushcliffe Borough Council.
 - The application Ref is 23/01974/FUL.
 - The development proposed is New build dwelling to existing amenity space with associated landscaping. New access with drop kerb and parking. New front gate.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the appeal site is a suitable location for the development proposed having regard to the policies of the development plan, including the Hickling Parish Neighbourhood Plan, and other material considerations, and
 - the effect of the development on character and visual amenities of the area.

Reasons

3. The proposal intends to subdivide the extensive curtilage of Willow House and erect a large detached 'dormer' bungalow, together with a new access and landscaping. The proposed dwelling would sit adjacent to Willow House, a two storey dwelling dating from the mid-twentieth-century on the south-west side of Melton Road in extensive grounds¹ within an area known as Hickling Pastures in the western half of Hickling Parish. The area is rural, characterised by open fields with hedged boundaries and, but for the principal settlement of Hickling, sparsely settled.
4. The Hickling Parish Neighbourhood Plan (HPNP) was adopted in March 2022 and sets out a number of policies which guide development in the Parish of Hickling and, particularly, policies for housing which are not inconsistent with those of the adopted Local Plan². In summary, consistent with the relevant policies of the RBLP, housing provision in Hickling Parish is expected only to meet local housing need

¹ Of around 2 ha including the appeal site.

² Policy 3 Rushcliffe Local Plan Part 1: Core Strategy and Rushcliffe Local Plan Part 2: Land and Planning Policy

and to do so within an area defined as the Hickling Limits to Development (HLD) which is tightly drawn around the village of Hickling.

5. Policy H10 of the HPNP (Housing Provision) states that housing development outside the HLD will be limited to specific exceptions. These include reuse of redundant buildings, replacement or subdivision of existing dwellings and a proposal capable of meeting the very high bar of exceptional design quality; none of which apply in this case. Although the appellant has made no submissions in this regard, exception A allows 'development of previously used (brownfield) land that is well-related to the settlement of Hickling Pastures, in principle, having regard to the other policies in the neighbourhood plan'. It follows that I should first consider whether the proposal would meet this exception test, which I now do.
6. The setting of Willow House and the appeal site is generally open and grassed³ rather than intensively planted. Some parts of the land within its curtilage are referred to as being 'simply mowed' and 'serving no agricultural purpose' by the appellant. Taken with the presence of some domestic paraphernalia⁴ in the area for the proposed dwelling this directs a conclusion that the existing use of the appeal site is as a private residential garden. Annex A of the Framework defines 'previously-developed' land⁵ but excludes private gardens from that definition if within a 'built-up area'; what is a built up area is not defined but a matter for consideration and judgement by the decision-taker.
7. Although this does not appear to be acknowledged by the Council, Hickling Pastures is referred to as a 'settlement' in the HPNP, and although limited in size with around 30 dwellings mostly set within very large plots spread along the A606 Melton Road, it has a number of features which characterise a 'built-up area' despite gaps of undeveloped land. These features include a name sign and speed limit signs at points of entry and exit, together with a significant proportion of road frontage with trimmed hedging and mown verges which attain a domestic standard and set it apart from the generality of rural highways. A narrow paved footway runs within the verges on one side of the road or the other between the entry and exit points, but not beyond. There are also some commercial premises within the settlement. Therefore, whilst the term 'built-up' clearly applies to predominantly urban environments and Hickling Pastures is a very small settlement, the features I have identified go beyond a mere clustering of dwellings on a rural road. For these reasons I consider Hickling Pastures may be generally understood as an identifiably 'built-up' location.
8. The appellant's comments do not reflect the policy position relevant to the insertion of new dwellings outwith locations identified for this purpose in the development plan. Policy 3 of the Rushcliffe Borough Local Plan Part 1: Core Strategy (RBLP part 1) sets out the spatial strategy for housing delivery in the Borough directing the majority of development towards the built-up areas of Nottingham and other key settlements. Policy 22 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (RBLP part 2) seeks to protect countryside from development. Elsewhere⁶ the Core Strategy directs that development should be for local needs only through small scale infill development or on exception sites. However, the RBLP Parts 1 and 2 were adopted in 2014 and 2019 respectively whereas the HPNP was 'made'

³ The area to the front appears to have been tilled for re-seeding

⁴ A child's swing

⁵ set out in Annex A of the NPPF and relevant case law

⁶ Policy 3: para 2 (b) viii

in 2022. Even if there were any divergence between these parts of the development plan (which is not suggested by any party) the more recent HPNP make specific provision and attracts significant weight.

9. I have concluded that the appeal site falls within the 'built-up' area of Hickling Pastures and is, in consequence, garden land within a built-up area, which, according to Annex A of the Framework, is excluded from the definition of previously developed land. The proposal, therefore, falls outside the exceptions provided within Policy H10 of the HPNP which, otherwise, directs housing within Hickling Parish to the HLD. In consequence the proposal directly conflicts with the provisions of the development plan which directs development to locations in accord with its strategic and neighbourhood planning policies. Moreover, I have nothing before me to indicate material considerations might direct otherwise.
10. Having reached this conclusion it is not necessary to address the second identified main issue with respect to the impact of the proposal on the character of the surrounding area. Consequently, having taken all matters raised into account, and for the reasons given, the appeal cannot succeed.

Andrew Boughton

INSPECTOR