



Appeal Decision

Site visit made on 23 September 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/J0540/W/24/3339977

Friarfield, London Road, Wothorpe, Peterborough PE9 3JS

- 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 Lawrence against the decision of Peterborough City Council.
 - The application Ref is 23/00332/OUT.
 - The development proposed is outline application for the erection of 1 dwelling (all matters reserved except for access).
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Lawrence against the decision of Peterborough City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline form with all matters reserved apart from means of access. The drawings showing the proposed layout of the dwellings have therefore been assessed as being for indicative purposes only.
4. Amended plans comprising Drawing Numbers JG01 Rev C 'Visibility Splays' and JG02 Rev B 'Proposed Access and Driveway Improvements' have been submitted with the appeal. These plans propose an amended passing bay location in order to move it further away from the tree protection zone. An additional plan Drawing Number JG03 Rev A 'Tree Survey Overlay' and a statement by East Midland Tree Surveys in relation to the widening of the access and the effect on trees have also been submitted with the appeal.
5. The amended and additional details do not make a substantial difference to the proposed access layout or result in a fundamental change to the application, when compared to those upon which the Council made its decision. Furthermore, the Council has reviewed this evidence and have confirmed that they will no longer be defending the reason for refusal relating to the effect of the proposed development on existing trees (reason 3) as a consequence. Following correspondence between the Council and the appellant, the Council have also confirmed they will no longer be defending the reason for refusal relating to whether the proposed development would provide adequate living conditions for existing and future residents, with particular reference to privacy (reason 4). As a consequence, there is no longer any dispute with regards to these particular matters and I have defined the main issues on this basis.

Main Issues

6. The main issues are:

- whether the site is an appropriate location for the proposed development; and
- the effect of the proposed development on the character and appearance of the area.

Reasons

Location

7. The appeal site forms part of the front and side garden of Friarfields and is located outside, but immediately adjacent to the settlement boundary of Wothorpe as defined on the Inset Map in the Peterborough Local Plan (2019) (PLP). There is no dispute between the main parties that the site is regarded as being located in the countryside for the purposes of decision making.
8. Policy LP2 of the PLP identifies a settlement hierarchy underpinned by several aims which include maintaining and reinforcing the distinction between built-up areas and countryside in line with its spatial strategy. It sets out a number of exceptions to the restriction of development in the countryside. It is common ground between parties that the proposed development does not meet any of these exceptions. These include development which satisfies the 'exception' test set out in Policy LP8 of the PLP relating to affordable housing or development in accordance with Policy LP11 of the PLP relating to agricultural workers dwellings. In such cases, Policy LP2 of the PLP states that all other residential development will, by definition, be contrary to the vision, objectives, development strategy and policies of the PLP and should be refused, unless otherwise acceptable within a made Neighbourhood Plan (NP). There is no made NP relevant to the appeal site.
9. The appellant has drawn my attention to case law¹ which confirms that private residential gardens that are not located in built up areas are not excluded from the definition of previously developed land (PDL). The appeal site meets the definition of PDL as set out in the National Planning Policy Framework (the Framework). In this regard, Paragraphs 123 and 124 of the Framework, encourage the effective use of PDL and give substantial weight to its use within settlements for homes. However, given the sites location in the open countryside, the proposal does not attract the substantial weight given by the Framework to the use of land in settlements for homes. Furthermore, the definition of PDL in the Framework in any event also confirms that it should not be assumed that the whole of the curtilage of a permanent structure, should be developed.
10. Even if there was no settlement boundary defined in the PLP, Friarfield is bordered by development within the village to the north beyond a mature soft landscaped boundary, agricultural fields to its south and east and its vehicle access leads through a wooded area leading to London Road (B1081) to the west. Even though there is a separate footpath link connecting the site to the village, vehicle access is via the B1081 rather than through the village. As a

¹ Dartford Borough Council v Secretary of State for Communities and Local Government [2016] EWHC 635 (Admin)

consequence it is physically, and visually, detached from the main part of the village. Even though the indicative siting of the proposed dwelling would not extend the built form any closer to the agricultural fields to the south, the appeal site would also have similar detached relationship with Wothorpe

11. Even so, the appeal site's location adjacent Friarfield and adjacent to dwellings within Wothorpe means that it is not isolated for the purposes of applying the Framework. Wothorpe itself has no substantial day-to-day services and facilities and occupiers of the proposed dwelling would likely need to access larger settlements including Stamford on a regular basis as a consequence. There is no dedicated footpath along the highway adjacent to the site's access off London Road leading towards Stamford. Although there is a separate footpath link leading into Wothorpe which provides alternative footpath links to Stamford, it is unlit and its grassed surface would not make it ideal for use during the dark or in wet weather when the ground could become muddy. Furthermore, given the round-trip distance, occupiers would likely only make this journey on an occasional basis and occupiers would likely rely on access via a private vehicle.
12. Access is not the only factor in considering whether the proposed development would meet the sustainable development needs of the area. Sustainable patterns of development in line with the spatial strategy for the area are also important for environmental reasons, including for example to ensure the proposed development does not harm the character and appearance of the surrounding countryside, a matter to which I have identified harm under the second main issue.
13. I conclude that the site is not an appropriate location for the proposed development. In this regard the proposed development would conflict with Policy LP2 and LP8 of the PLP as it does not meet any of the exceptions to development in the countryside, including the 'exception' test in relation to the provision of affordable housing, and would therefore, by definition, be contrary to the vision, objective, development strategy and policies of the PLP, and should be refused. The proposed development would also be contrary to Paragraph 15 of the Framework that confirms that the planning system should be genuinely plan-led and to provide homes in a sustainable manner and Paragraph 109 which requires the planning system to actively manage patterns of growth in order to promote sustainable transport.

Character and appearance

14. Wothorpe is a village located part way between the A1 and the centre of Stamford and primarily consists of large, detached individually designed dwellings positioned around First Drift and Second Drift which lead off the main routes of London Road and Kettering Road. The appeal site is located within the Nassaburgh Limestone Plateau landscape character area as defined in the Peterborough Landscape Strategy, Landscape Character Assessment for Peterborough City Council, Final Report (2007) (LCA). Agricultural fields, blocks of woodland and well managed parkland are located in the wider area surrounding Wothorpe and are among some of the key characteristics of the area identified in the LCA which also include a gently undulating limestone landscape and a generally quiet rural ambience.
15. Friarfield is a large detached two-storey dwelling in substantial grounds set back from the London Road on the other side an area of woodland. Vehicle

access to Friarfield is located through a gated access in a break in the stone wall along London Road. Grass verges, stone walls and mature trees are prevalent along London Road with glimpses towards open fields and parkland beyond achievable positively contributing to the rural character of the route.

16. The appeal site consists of part of the front garden of Friarfield and comprises a small timber shed, lawn, planted area, gardens paths, trees protected by Tree Preservation Order (TPO) and part of the driveway serving Friarfield. Boundaries of the site include stone walls and green palisade fencing adjacent to the wooded area. The verdant and spacious qualities of the site make a positive contribution to the character and appearance of the countryside as it transitions between the edge of Wothorpe and the wooded areas and agricultural fields beyond, contributing positively to many of the key characteristics set out in the LCA.
17. The area of the application site is significantly smaller when compared to land within the appellants control within the wider Friarfield site as a whole. Whilst the layout and design of the proposed dwelling are reserved matters, the indicative siting plan illustrates that the proposed dwelling would likely be tightly sited between the access drive and the root protection zones of the TPO trees. As a consequence, the developable area resulting from the site constraints is small as illustrated by the significantly smaller footprint of the proposed dwelling in comparison to the footprint of Friarfield shown on the indicative plans. This would likely result in a contrived design with minimal space between the existing and proposed buildings which would contrast with the spacious arrangement of Friarfield and neighbouring dwellings. The appellant has suggested that any visual harm could be adequately mitigated by way of a landscaping scheme. However, the parameters of the site mean that there it is likely that there would be limited space remaining for new planting, particularly between the proposed dwelling and Friarfield which in any event would likely take a significant period of time to establish.
18. Guidelines in relation to development in this area set out in the LCA include restricting the built development in the area and protecting the plateau from development that would impinge on or disrupt the existing wooded skyline from within or outside the area. Whilst views are limited from public vantage points including from London Road, the proposed development would be evident to visitors and occupiers of Friarfield, with glimpses potentially achievable from the footpath. The proposed dwelling would result in an urbanising effect in the rural area and would not reflect the existing pattern of development particularly in terms of the spacious layout of Friarfield. The introduction of new residential development and increased residential use in this location would also inevitably change its character, and harm its rural and landscape setting due to the loss of open land to permanent built development.
19. I conclude that the proposed development would have a harmful effect on the character and appearance of the area. In this regard it would conflict with Policies LP16 and LP27 of the PLP which require development proposals to positively contribute to the character and local distinctiveness of the area and to ensure that new development in and adjoining the countryside retains, enhances or restores the distinctive qualities of the landscape character.
20. For the same reasons, the appeal proposal would conflict with the Framework, notably paragraphs 128 d), 135 c) and 180 b), which support development that

maintains an area's prevailing character and setting; seeks to ensure that developments are sympathetic to local character; recognises the intrinsic character and beauty of the countryside and also seeks to achieve well-designed places in line with guidance contained in the National Design Guide Planning Practice Guidance for Beautiful, Enduring and Successful Places (2021).

21. The Council's reason for refusal also refer to the guidance in Policy VSD1 - 5 of the Council's Design and Development in Selected Villages Supplementary Planning Document (2011) (SPD) which is not directly relevant to the proposed development since the appeal site is not located in the identified settlement boundary for Wothorpe. Even so, for the reasons given, I am not persuaded by the appellants suggestion that harm to character and appearance is likely to be greater in an area of 'special character' like Wothorpe compared to development in the open countryside.

Other Considerations

22. My attention has been drawn to a previous appeal² which was allowed and granted outline planning consent for up to three detached dwellings on land to the east of Camelot in 2017. This decision was based on a previous version of both the Development Plan and the Framework, which previously encouraged the effective use of land by reusing land that had been previously developed (brownfield land), provided that it was not of high environmental value. Furthermore, a small part of the site was located within the village envelope and the Inspector attached weight to the fact that this site was enclosed on three sides by housing with no resultant material harm to the character and appearance of the area despite its close proximity to a public right of way. Accordingly, the circumstances of that appeal decision were therefore materially different to the proposed development before me.
23. I do not know the planning circumstances behind application numbers 19/01171/FUL, 17/01203/FUL, 16/01049/FUL, 11/01877/FUL, 11/01946/OUT, 13/01787/FUL, 14/01843/FUL and 16/02049/FUL. However, the appellant suggests that these examples are located in Wothorpe and as a result they do not share the same characteristics of the appeal site and different development plan policies were likely to have been relevant. In any event, even if similar dwellings have been approved elsewhere, this does not alter my observations in respect of the site-specific circumstances of the appeal proposal and the current development plan requirements.
24. The potential for the proposed development to impact on the Grade I Registered Park and Garden of Burghley House has been raised. This is not a concern raised by the Council. Burghley House is one of the largest and grandest houses of the first Elizabethan Age and the historic parkland contains fine gatehouses and walls around its perimeter. Having considered the intervening development, the outline nature of the proposed development and relationship between the appeal site and these assets, I am satisfied that no harm to significance would arise. Even so, this does not alter the harm I have identified in relation to the main issues.
25. The proposal would make a minor yet positive contribution to housing supply. Benefits of the proposal include utilising PDL adjacent to the settlement and

² Appeal Ref: APP/J0540/W/16/3164021 Land East of Camelot, First Drift, Wothorpe

additional support for services and facilities in the local area including within Wothorpe and Stamford. Employment during construction would be generated. However, given that the proposal is for one additional dwelling, these associated benefits would be limited. I also note that the Council identified no other harm in relation to highway safety and ecology. However, these considerations indicate the absence of harm rather than any benefit.

26. I also acknowledge that the appellant is a long-standing resident of Wothorpe and that the proposed dwelling is for family member use rather than a developer interest. However, the proposed development is for a market dwelling and no substantive evidence has been provided to suggested there is a particular need for a dwelling on the site and these matters have not therefore been determinative in this instance.

Planning Balance

27. The Council has acknowledged that it is not currently able to demonstrate a five-year housing land supply. As such, Paragraph 11 d) of the Framework is a relevant consideration.
28. In the particular circumstances of this case, I have concluded that the site is not an appropriate location for the proposed development and harm to the character and appearance of the area would be significant and would conflict with the aforementioned policies of the Framework. Whilst recognising that a site such as this can make a small albeit important contribution to the housing requirement of the area and could potentially be built-out more quickly than a larger scheme, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As a result, the proposal does not benefit from a presumption in favour of sustainable development and paragraph 11 d) of the Framework indicates that permission should not be granted.

Conclusion

29. The proposal would conflict with the development plan as a whole and the material considerations, including the provisions of the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

H Marriott

INSPECTOR