



Appeal Decision

Site visit made on 1 October 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/Y2430/W/24/3344808

**The Limes Farm, 37 Middle Lane, Nether Broughton, Melton Mowbray
LE14 3HD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Charles Whyte against Melton Borough Council.
- The application reference is 24/00328/FUL.
- The development proposed is the erection of 2 no. bungalows.

Decision

1. The appeal is dismissed and planning permission for the erection of 2 no. bungalows is refused.

Procedural Matter

2. On 12 December 2024 the Government published a revised National Planning Policy Framework ("the Framework"), replacing the December 2023 version. The provisions most relevant for determining this appeal were not altered significantly, and as a result I consider that there is no requirement for me to seek separate submissions on the revised Framework. I am satisfied that no party's interests have been prejudiced by my taking this approach. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the December 2024 version.

Background and Main Issues

3. The Council had not determined the planning application prior to the appeal. However, during the appeal it stated that it would have refused planning permission due to the site's location outside the settlement boundary identified in the development plan, and because of potential harm to trees and hedgerows on and around the site.
4. The main issues are therefore:
 - Whether the appeal site is an appropriate location for the proposed development, having regard to relevant local and national planning policy; and
 - The effect of the proposed development on mature trees and hedgerows.

Reasons

Location

5. The appeal site is an area of grassland associated with, and just to the south of, Limes Farm, south-east of the village of Nether Broughton. Immediately

west of the site are five dwellings – four semi-detached houses, recently built under a 2017 permission¹, and an older detached dwelling known as Ivy Cottage. The proposed development is the erection of two three-bedroom bungalows, which would be sited alongside the private driveway giving access to the four new dwellings.

6. The 2018 Melton Local Plan ("the MLP") identifies Nether Broughton as a "rural settlement", the lowest tier of the plan's settlement hierarchy. Policy SS2 of the MLP sets out the development strategy, and seeks to direct the majority of housing growth to the Melton Mowbray urban area. It says that rural settlements will accommodate "a proportion of the borough's housing need" through windfall development on "small unallocated sites which meet the needs and enhance the sustainability of the settlement in accordance with Policy SS3", but that new development outside settlements will be restricted to that which is necessary and appropriate in the open countryside.
7. Policy SS3 addresses windfall development, and states that "planning permission will be granted for new residential development in the rural area within or on the edge of existing settlements, provided it is in keeping with the scale and character of the host settlement". This is however subject to compliance with a list of seven criteria, the most relevant here being that the development would provide housing to meet "a proven local need as identified by substantive evidence, for example within a Neighbourhood Plan or appropriate community-led strategy, or a housing assessment or other evidence provided by the applicant".
8. The site lies outside the "limits to development" for Nether Broughton defined in the Nether Broughton and Old Dalby Neighbourhood Plan ("the NP"), which was "made" and became part of the development plan in 2018. Policy S2 of the NP states that land outside defined Limits to Development will be treated as open countryside, and development will be controlled in line with local and national strategic planning policies.
9. Policy H1 of the NP states that permission will not be granted for new residential development beyond the commitments identified in that plan, other than where it complies with Policies H2, H3 and BE3. Policies H2 and BE3 deal respectively with an allocated housing site at Station Lane, Old Dalby, and with the re-use of agricultural and commercial buildings, and so are not relevant in this appeal. Policy H3 is supportive of residential development on windfall sites within the identified limits to development, though this is also dependent on the site and development complying with other criteria including being a "restricted gap" in an otherwise continuous built-up frontage or "closely surrounded by buildings".
10. The NP identifies a need within Nether Broughton and Old Dalby for smaller homes which would be suitable for residents needing to downsize, small families, and those entering the housing market. However, it also indicates that existing housing commitments already identified are sufficient to meet the anticipated need over the plan period. In this light, while the proposed development would make a contribution to the overall supply of housing in the parish and borough, there is no substantive evidence before me to demonstrate that it would meet a proven local need in the terms set out in the MLP. Furthermore, the appeal site is outside – albeit adjacent to – the

¹ LPA Ref: 17/01135/FUL, which followed outline approval LPA Ref: 15/00220/OUT

development limit for Nether Broughton, and the development would conflict with the spatial strategy for the borough. The proposal is not one which would infill a restricted gap or develop a site otherwise closely surrounded by buildings, and so it would not comply with the provisions of the NP in respect of windfall development.

11. Taking all of this together, I conclude that the appeal site is not an appropriate location for the proposed development. It would conflict with Policies SS2 and SS3 of the MLP, and Policies S2, H1 and H3 of the NP, the principal relevant provisions of which I have set out in paragraphs 6 to 9 above.

Trees and hedgerows

12. The appeal site has mature trees and hedgerows along its southern boundary with the A606 road. I saw on my visit that they not only provide screening of the site, but make a wider positive contribution to the character of this entrance to Nether Broughton.
13. The proposed development would include additional tree and hedgerow planting but, although the planning application included an ecology survey this did not set out specific measures to protect the established trees and hedgerows. Given the positive contribution they make to the appeal site and to the wider area, I agree that such measures would be necessary. However, this is a matter which I am satisfied could, were the proposal acceptable in all other respects, be addressed by a condition requiring the submission of a tree survey and the carrying out of the development in compliance with approved tree protection measures.
14. Subject to such a condition, I am satisfied that the proposed development would not have a significant adverse effect on mature trees or hedgerows. It would therefore comply with Policies D1 and EN6 of the MLP, and Policy H6 of the NP which together, and among other things, seek to ensure that development is of high-quality design, including by using existing trees and hedgerows and by providing appropriate new landscaping including native trees and shrubs, and that it does not harm significant open areas which contribute positively to the character of settlements.

Other Matters

15. The appellant referred me to a June 2024 decision of the Council to grant planning permission for a detached dwelling on land outside the village of Hoby². That followed an earlier appeal decision³ wherein, although the appeal as a whole was dismissed because of harm to the character and appearance to the area, the Inspector found the site to be an appropriate location for the proposed development. However, the other site is in a different parish, and it seems that the relevant neighbourhood plan policy (Policy 14 of the 2021 Hoby and Rotherby Neighbourhood Plan) sets different criteria for new residential development to those applied in this case by the Nether Broughton and Old Dalby Neighbourhood Plan. While like proposals should be determined in a like manner, the differences in the development plan taken as a whole mean that the Hoby permission carries only limited weight in favour of this scheme.

² LPA Ref: 23/00479/FUL

³ PINS Ref: APP/Y2430/W/22/3300525

Planning Balance and Conclusion

16. I have found that the proposed development would not cause unacceptable harm to trees or hedgerows. Beyond its concern on that particular matter, the Council considered the proposed design and layout of the scheme would be acceptable, and found no harm in respect of neighbours' living conditions, highway safety, or biodiversity. None of the evidence before me leads me to take a different view on any of those points; an absence of harm in these respects is a neutral consideration in the overall balance.
17. I have had regard to the updated Framework, as well as to ministers' related statements⁴ which set out the scale of "the most acute housing crisis in living memory". The development would provide two new dwellings a short walk from the centre of Nether Broughton, where some typical rural services (including a church, village hall, pub, and children's play area) are available. The development would generate jobs during the construction phase, and future occupiers would help to maintain the viability of those local services, as well as those in other nearby villages. It would support the government's objective of significantly boosting the supply of homes, and as a small site it is likely that development could be delivered reasonably quickly. Given the small scale of the appeal scheme, its benefits would be correspondingly modest; they carry limited weight in its favour in the overall balance.
18. Legislation and the Framework⁵ are clear that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The most recent information before me is that the Council is able to demonstrate a housing land supply of around 8.4 years, and there is nothing to suggest that the relevant development plan policies should be considered out-of-date for any other reason.
19. The conflict with the development plan policies which I have set out in paragraphs 10 and 11 above carries full weight in my determination of this appeal. The identified material considerations, taken together, do not carry such weight as to indicate that the decision should be made other than in accordance with the development plan.
20. For the reasons given above, the appeal should therefore be dismissed and planning permission refused.

M Cryan

Inspector

⁴ "Building the homes we need": Statements by the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government, 30 July 2024 <https://questions-statements.parliament.uk/written-statements/detail/2024-07-30/hcws48>, and by the Minister of State for Housing and Planning, 12 December 2024 <https://questions-statements.parliament.uk/written-statements/detail/2024-12-12/hcws308>

⁵ Section 38(6) of the Planning and Compulsory Purchase Act 2004; Paragraphs 2, 12 and 48 of the Framework.