



Appeal Decision

Site visit made on 25 February 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Appeal Ref: APP/Y2430/W/24/3350159

Land adjacent to 9 Navigation Close, Melton Mowbray LE13 0BF

- 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 David Knight against the decision of Melton Borough Council.
 - The application Ref is 22/01373/OUT.
 - The development proposed is a 2-bed detached bungalow.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr David Knight against the decision of Melton Borough 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. I have therefore treated the drawings as being for indicative purposes only in terms of the layout of the dwelling but have had regard to details of access.
4. A revised National Planning Policy Framework (the Framework) was published in December 2024. In this instance, the parts of the Framework most relevant to the appeal are unaffected by the revisions. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by this.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of neighbouring occupiers with particular regard to outlook and light; and
 - biodiversity and protected species.

Reasons

Character and appearance

6. Navigation Close is a cul-de-sac within a housing estate characterised by a mixture of brick and render buildings including single, two and three-storey dwellings with small front and rear gardens either facing close to or sitting side onto the street. Many front gardens are hard landscaped and provide off-street parking spaces. Parking courtyards are also present. Whilst infrequent, the presence of small areas of open space contribute to a green and spacious feel which assists in softening the appearance of the estate.
7. The appeal site is a parcel of land laid to grass located between Nos 9 and 11-15 Navigation Close (No 9 and Nos 11-15). The land is enclosed by a timber knee rail fence and heras fencing. A number of trees are located on and adjacent to the appeal site. It is clear from the plans associated with the wider housing estate¹, that the appeal site would form a deliberate area of open space within the layout of the surrounding residential development. Even though the site is not accessible to the public and does not appear to have been recently maintained and enclosed with heras fencing, it still provides an overriding spacious and verdant focal point for occupiers of surrounding dwellings and for those travelling along Navigation Close.
8. Policy EN6 of the Melton Borough Local Plan 2011-2036 (2018) (the MLP) states that development proposals will be supported where they do not harm open areas which positively contribute to the individual character of a settlement. The supporting text to this policy explains that in addition to Local Green Space (LGS) designations defined by Policy EN5 of the MLP, there are many areas of land within the built-up area of settlements which make an important contribution to the character of the street scene. This includes spaces which have the potential for LGS designation in the future.
9. Whilst layout and siting are reserved matters, it is still necessary to consider whether an acceptable development as described in the proposal, that complies with all relevant policies of the MLP, can be devised based on the evidence provided including any indicative plans.
10. The indicative layout plan suggests that the proposed bungalow could sit alongside although slightly set back from the frontage of No 9. The siting and layout of the proposed bungalow and associated driveway on any part of the appeal site would likely be appreciable along Navigation Close in both directions. Whilst the existing trees are not explicitly referred to in the Council's decision, they form an integral part of the appeal site and the evidence suggests that some removal would be likely. The introduction of built form combined with the loss of these trees would represent a stark contrast to the existing open and verdant qualities of the appeal site and would result in an unacceptable erosion of the spacious characteristics of this part of the estate.
11. Even though the appeal site is not allocated as LGS defined by Policy EN5 of the MLP and there is no condition attached to the planning permission for the wider housing estate to require the retention of the appeal site as open space, this does not justify the planning harm identified.

¹ Council refs: 00/00793/OUT Proposed outline application for residential development, 02/00288/REM Proposed erection of 28 dwellings together with associated roads, footpaths, drives and parking spaces and 03/00913/REM Proposed variation of road layout and associated minor repositioning of dwellings approved under 02/00288/REM.

12. I conclude that the proposed development would result in a harmful effect on the character and appearance of the area. In this regard, it would conflict with Policies D1, EN1 and EN6 of the MLP insofar as they require all new developments to be of high quality design and to reflect the wider context of the local area, to respect existing landscape features and to ensure that development proposals do not harm open areas which contribute positively to the individual character of a settlement.
13. The proposed development would also conflict with paragraph 135 of the Framework which requires development to establish or maintain a strong sense of place, using the arrangement of streets and spaces to create an attractive, welcoming and distinctive place to live.

Living conditions

14. Nos 11-15 contain habitable rooms windows in their front elevation facing towards the appeal site. Despite the presence of the heras fencing, the occupiers of these dwellings currently have a spacious outlook across the appeal site.
15. There is no dispute between main parties that adequate separation distances between the existing dwellings and proposed dwelling could be achieved. On this basis, this combined with the single storey height of the proposed dwelling would ensure that the proposal would not result in a harmful effect upon the outlook for the occupiers of the nearest existing dwellings. For the same reason, the proposed development would not result in a material loss of light to the habitable rooms of Nos 11 and 15.
16. I conclude that the proposed development would not result in harm to the living conditions of neighbouring occupiers with particular regard to outlook and light. In this regard, it would comply with Policy D1 of the MLP insofar as it requires the amenity of neighbours not to be compromised.

Biodiversity and protected species

17. The planning application pre-dates the introduction of the national mandatory biodiversity net gain² and therefore would be exempt from its requirements. Nonetheless, paragraph 193 of the Framework requires opportunities to improve biodiversity in and around developments to be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
18. Even though the appeal site is located within a built-up urban environment, it is still capable of having a biodiversity value and/or a potential to support protected species. Whilst the appellant has confirmed that some trees could be retained a tree survey has not been provided to confirm this. Furthermore, whilst it is acknowledged that areas of landscaping/garden would be retained as part of the proposed development, no survey or details of the site's biodiversity value or potential to support protected species has been provided. Therefore, there is insufficient information to assess the effects of the proposed development on protected species and biodiversity.
19. I conclude that it has not been demonstrated that the proposed development would not result in harm to biodiversity and/or protected species. In this regard, it would conflict with Policy EN2 of the MLP which seeks to achieve net gains for nature and to proactively seek habitat creation as part of new development proposals.

² Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)

Other Considerations

20. There is no dispute between main parties that the proposal would be located in a suitable location for new residential development, would make a contribution to the housing supply requirements and would make a contribution towards the delivery of smaller accessible housing, particularly bungalow provision. The proposal would therefore make a small but beneficial contribution to the choice of homes in the area and its housing supply; as well as providing social and economic benefits during construction and after occupation. However, given the scale of the development, the benefits associated with the delivery of one dwelling would be modest and would not justify the harm I have identified.
21. The potential effect of the proposal on the scheduled ancient monument known as 'The Mount Motte at Melton' (SAM) has been raised. The Council consider that the proposed development would not result in any direct impact or harmful effect impact on the setting of the SAM. Having considered the relationship between the appeal site and this asset, I have no substantive evidence before me to reach a different view in this regard and I am satisfied that no harm to significance would arise.
22. My attention has been drawn to a provisional Tree Preservation Order (TPO) on the appeal site. Whether a TPO will be confirmed is currently unknown. Even if it is not, this does not overcome the harm I have identified in relation to the effect of the proposed development on the character and appearance of the area and failure to demonstrate that there would be no harmful effects on biodiversity and/or protected species.
23. The application was recommended for approval by officers but refused at planning committee. The decision on whether to grant permission in this case was a matter of judgement which the committee was entitled to exercise. The appellant also raises concerns relating to the Council's handling of the planning application including timescales for determination. However, this is not a matter for this appeal and I have determined the appeal on its planning merits against the policies of the development plan.
24. The appellant suggests that the Council declined the opportunity to adopt the site as amenity space and state that it is not their responsibility to provide or maintain amenity space on the site. However, such matters are private matters and do not affect the outcome of my assessment of the planning merits of the development in the context of this appeal.
25. The appellant also refers to planning matters where the Council has not identified harm, including car parking. However, these matters are neutral factors and do not alter my findings on this appeal.

Conclusion

26. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR