



## Appeal Decision

Site visit made on 19 March 2025

**by S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 April 2025

**Appeal Ref: APP/Y2430/W/24/3351067**

**The Mill House, 21 Mill Lane, Asfordby, Melton Mowbray, Leicestershire LE14 3SF**

- 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 Roland Barker against the decision of Melton Borough Council.
- The application Ref is 20/01485/FUL.
- The development proposed is described as a “new 3 bedroom split level dwelling to side of 21 Mill Lane access road of bridge”.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and amended on 7 February 2025. Those parts of the Framework most relevant to the appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no parties interests would be prejudiced by my taking this approach.
3. Notwithstanding the description of development, the plans show a two storey dwelling and include other elements, such as a new vehicular access and bridge. Given the Council's chosen description of development, they clearly considered these as part of the proposal and so no injustice will arise if I do too.
4. The Council's third reason for refusal refers to the setting of the Asfordby Conservation Area (CA). However, the evidence indicates that the appeal site lies within the CA. I have therefore considered the appeal on that basis and have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

### Main Issues

5. The main issues are:
  - whether the appeal site is a suitable location for the development proposed, having regard to the development plan,
  - whether the proposal is in a suitable location, having regard to flood risk,
  - whether the proposal would preserve or enhance the character or the appearance of the Asfordby CA, and
  - the impact of the proposed development on highway safety.

## Reasons

### *Whether a suitable location*

6. Asfordby is defined as a Service Centre within the Melton Borough Local Plan 2018 (LP). While only marginally outside, the appeal site is not within the settlement boundary of Asfordby Village, as defined within the Asfordby Parish Neighbourhood Plan 2023 (NP).
7. NP Policy A10 allows for the development of unallocated windfall sites outside of the settlement boundary subject to certain criteria being met. Criteria C of NP Policy A10 lends its support for housing development on the edge of a settlement which meets the requirements of LP Policy SS3.
8. LP Policy SS3 states, among other things, that planning permission will be granted for new residential development in the rural area within or on the edge of existing settlements provided it complies with several criteria. One such criterion states that the development provides housing which meets a proven local need as identified by substantive evidence, for example within a NP or appropriate community-led strategy, or a housing assessment or other evidence provided by the applicant.
9. The proposed development would provide a retirement dwelling and allow the appellant's son to reside at Mill House, thereby resulting in the son's rental property becoming available and removing the son from the housing competition within Asfordby. While noting these benefits, there is limited substantive evidence to demonstrate that the proposal would meet a proven local need.
10. For these reasons, the appeal site is not a suitable location for the development proposed, contrary to LP Policy SS3 and NP Policy A10, as set out above.

### *Flood Risk*

11. The majority of the appeal site is located within Flood Zone 2, with the remainder within Flood Zone 3. The Framework and Planning Policy Guidance (PPG) aim to steer development to areas with the lowest probability of flooding through the application of the sequential approach. LP Policy EN11 reinforces this requirement.
12. Although it is contended that the location of the proposed building is the best for the site, no sequential test has been provided. In the absence of such, while noting the appellant's contention that most of the flood water is carried by the wash land to the south of the site where woodland exists, it cannot be safely concluded that there are no other sites for the proposed development which are at lower risk of flooding.
13. Several design measures are proposed to alleviate any flood risk, including the dwelling being set 480mm above flood zone 2 and agreeing the soffit level of the new access bridge with the Environment Agency. Moreover, the appellant highlights that the additional entrances in the wall which could impact a 150 year flood risk will aid water flow. However, the PPG is clear and advises that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. Therefore, while such measures are noted, these do not negate the need for a sequential test.

14. Planning permission<sup>1</sup> for development within flood zone 3, on land close to the appeal site, has been drawn to my attention. This permission relates to offices and a storage facility, whereas the appeal proposal is for a domestic dwelling. As such, it is not directly comparable. In any case, I have considered the appeal on its own merits.
15. For these reasons, I conclude that the proposed development is not in a suitable location, having regard to flood risk, contrary to LP Policy EN11, as set out above.

#### *Conservation area*

16. The appeal site lies within the Asfordby CA. It comprises a large lawned area associated with The Mill House, 21 Mill Lane (Mill House). While the appeal scheme is accompanied by a Historic Impact Assessment, this does not adequately describe the significance of any heritage assets affected, as required by the Framework.
17. Notwithstanding this, there is sufficient evidence, including the Asfordby Conservation Appraisal 1986 and the NP, to enable an assessment of the significance of the heritage assets. The CA is centred on the historic core of the village, and includes, among other things, an area of the washlands surrounding the old Mill. Mill Lane is a throughfare towards the most southerly point of the CA. The character changes as it opens out into a millpond area that is encircled by trees and overlooked by Mill House, which is identified as a non-designated heritage asset within the NP. This area imparts the rural feel of the countryside into the village.
18. The significance of the CA, insofar as is relevant to this appeal, is derived from the rural, verdant, tranquil and calm setting of the mill pond. The large verdant grounds associated with Mill House, which include the appeal site, and the adjacent trees contribute towards the significance of the CA.
19. The appeal scheme seeks to erect a large, detached, two storey property, and create a new bridge and access road. The appellant highlights that the dwelling would be hidden behind a wall and adjacent trees, with the new bridge having a minimal appearance that would replicate the balustrade of the southern footbridge.
20. While to a recognised scale and noting materials and finishes have been indicated, the submitted plans are rudimentary and without full detail. In this regard, although the submitted information does not allow for a detailed assessment of the proposal, the evidence does indicate that the substantial footprint of the proposed dwelling and what appears to be significant engineering works required to provide the new bridge and access road would erode the rural character of the area and be harmfully out of place.
21. There are several trees within and adjacent to appeal site. The appellant has sought to identify which live trees would be removed and retained and asserts that all foundations are outside of the tree root locations. It is noted that a full biodiversity report has been submitted which makes references to trees. However, such a document seeks to assess species and habitats that may be affected by the proposed development. While noting the appellant's concerns in respect of

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<sup>1</sup> Planning application reference: 21/00102)

additional costs and time, no substantive evidence in respect of trees, in the form of an arboricultural survey that conforms to BS5837:2012, has been submitted.

22. In the absence of such evidence, it is not possible to assess what harm, if any, the proposal would have on these trees and whether the proximity of the development from the tree roots would be adequate. As the trees contribute towards the significance of the CA, I am not satisfied, based on the evidence before me, that the proposal would not cause material harm to the character or the appearance of the CA through the loss of, or damage to, the adjacent trees.
23. Given the degree of uncertainty and the potential for unacceptable impacts on surrounding trees, or any necessary mitigation measures, to hinder the implementation of the proposal as submitted, it would not be appropriate to require a tree survey, via a planning condition, following any approval.
24. Consequently, the appeal scheme would fail to preserve or enhance the character or the appearance of the Asfordby CA as a whole and would result in harm to the significance of the designated heritage asset. The appeal scheme is therefore contrary to the Act, LP Policies D1 and EN13 and NP Policies A8 and A9. Collectively, these seek, among other things, seek to ensure development reflects the wider context of the local area, protects non-designated and designated heritage assets and reflects the distinctive and traditional character of Asfordby.
25. As required by paragraph 212 of the Framework, great weight should be given to the conservation of a designated heritage asset, irrespective of the amount of harm identified. In this case, I consider that the harm to the significance of the heritage asset is at the lower end of less than substantial.
26. Paragraph 215 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, then this harm should be weighed against the public benefits of the proposal. I turn to this in the overall heritage and planning balance later in the decision.

### *Highway safety*

27. The appeal site is accessed from Mill Lane via an unadopted road. This then leads to a footbridge that provides pedestrian access to Mill House and the appeal site. The appeal scheme seeks to provide vehicular access to the appeal site through the provision of a new bridge and access road.
28. The evidence indicates that a Public Right of Way H43 (PROW) runs adjacent to the appeal site. The appellant's appeal statement indicates their intention to re-route the PROW in order to protect the longevity of the footbridge. No further details, including the proposed route of diversion, have been included.
29. The Council contend that the appeal site is located more than 45m from a highway. In such cases, proposals must cater for emergency vehicles by constructing the drive and any turning areas so they can accommodate a commercial or service vehicle. In addition, vehicles should not have to reverse more than 20m. While the appellant asserts a distance of 41m, the evidence before me states that this has been measured from a hydrant, not the highway.
30. Irrespective of the finish of the access road and inconsistencies within the submitted drawings, the appellant confirms in their appeal statement that the

access would have a width of 3.7m. However, the evidence indicates that drawing number 141 Revision 1 dated 20/09/21 shows the access road narrowing to approximately 3m. Given this shortfall, I am not satisfied that the new access road could accommodate a commercial or service vehicle.

31. Notwithstanding the conclusions with regard to the access width, while it is asserted that the proposed turning area is more than adequate for a vehicle of 7.5 tonnes to manoeuvre, there is no evidence, such as swept paths, to substantiate this. I cannot be certain, therefore, that emergency vehicles could safely enter and leave the appeal site in a forward gear, with the likelihood being that such vehicles would have to reverse in excess of 20m. Such manoeuvres could cause conflict with other road users, including users of the PROW, to the detriment of highway safety.
32. Consequently, there is insufficient information to fully assess the highway implications of the proposed development, and I cannot be certain, in the absence of such information, that the proposed development would not have an adverse impact upon highway safety. This is contrary to LP Policies D1 and IN2 which, collectively, seek to ensure development proposals include appropriate, safe connection to the existing highway network.

### **Other Matters**

33. Various alleged inconsistencies have been raised with regard to the NP. Such matters are not for determination as part of an appeal made under section 78 of the Town and Country Planning Act 1990.
34. Several concerns have been raised in respect of the planning application process, including that the local planning authority does not have a full understanding of the site, the location of the cast iron bridge, lack of visits to the site by officers, and that the historical element has not been viewed correctly by Historic England. The appellant also highlights that, despite early requests, a Statement of Common Ground could not be secured. These are matters between the Council, appellant and relevant consultees.
35. While the evidence indicates that the PROW would be re-routed, applications for footpath diversions are considered under legislation that is separate to the planning process. A lack of objections from immediate neighbours does not outweigh the harm identified in respect of the main issues.

### **Heritage and Planning Balance**

36. The proposal would contribute towards the housing supply in the area, thereby supporting the Government's objective of significantly boosting the supply of homes. In this regard, the appellant states that any sensitive build is a benefit to the parish. It would make use of an oversized lawn area for a retirement dwelling for the appellant. The appellant's son, who works from home, would take on Mill House and would continue to look after the property and grounds with the same care and attention as the appellant and their wife. The son's rental property would then be made available, while removing them from the housing competition in the locality.
37. The evidence states that the property would be of a high standard, with insulation above current standards. It would include solar panels with battery storage,

heating from a ground or air-source heat pump and surface water tanked or drained to soak aways, with sewage managed by a Klargester. Having regard to the scale of the appeal scheme, these benefits attract limited weight.

38. The appellant states that the appeal scheme would provide improvements to the mill pond, including preserving areas of interest and allowing for proper water retention. The appellant's intention is to upgrade the area to improve its visibility to public footpath users, including over the pond and a previously unseen view of the weir. In addition, it is asserted that re-routing the public footpath would provide wider and safer pedestrian access, with less risk of personal injury and altercations between dogs and better control to stop motor bike use and abuse by horse riders. The appellant also contends that the removal of overhead telephone and electrical services would result in an improved visual effect.
39. The evidence indicates that the brick and concrete northern footbridge, which is the only current access to Mill House and carries the gas and water services for this property, is failing. Should the PROW be re-routed, the appellant highlights that the footbridge is likely to be preserved for longer, as it would be subject to reduced footfall.
40. If this footbridge fails, the appellant states that the flooding requirements would dictate the soffit height of the replacement bridge resulting in the need for a ramp for disabled access. The appellant asserts that the required gradient would be excessive and cannot be achieved. In addition, the appellant highlights that should the footbridge be replaced, items of historical merit, including the weir gate mechanisms, would need to be removed.
41. However, it has not been demonstrated that the appeal scheme is the only means by which these benefits could be achieved. Moreover, there is also limited evidence to demonstrate why the northern footbridge could not be repaired. Therefore, such benefits carry limited weight.
42. Cumulatively, the wider public and planning benefits associated with one dwelling carry limited weight in favour of the appeal scheme. The Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of whether there would be less than substantial harm to significance. Consequently, the weight of public benefits in favour of the proposed development would not be sufficient to outweigh the harm to the significance of the designated heritage asset identified.
43. I have also found that there would be conflict with the Council's development plan policies in relation to the location of the development, flood risk and highway safety.

## **Conclusion**

44. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

*S Pearce* INSPECTOR