



Appeal Decision

Site visit made on 21 January 2025

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 May 2025

Appeal Ref: APP/F2415/W/24/3351864

Street Record, Leas Close, Ullesthorpe, Leicestershire LE17 5FY

- 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 Adrian Symonds of Symonds & Newey against the decision of Harborough District Council.
 - The application Ref is 24/00139/FUL.
 - The development proposed is 7no. new dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the consideration of this appeal, I was made aware that the Council's 5-year housing land supply position had changed. As such, the main parties were given the opportunity to comment on the updated housing land supply position and where comments have been received, they have been taken into consideration.
3. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. The main parties were given the opportunity to comment on the updates to the Framework and where they have been received these comments have been taken into consideration.

Main Issues

4. The main issues relevant to this appeal are:
 - the effect of the proposal upon the character and appearance of the area; and
 - the effect of the proposal upon the ecology and biodiversity of the site and its surroundings.

Reasons

Character and Appearance

5. The appeal site is located off Ashby Road towards the edge of Ullesthorpe. The southern site boundary is marked by trees and hedgerows and to the north is a recent development of nine dwellings. As such, it is relatively enclosed and well related to the existing built development. A recreation ground sits to the east of the appeal site. The appeal site formed part of the application site in the outline and

reserved matters applications for a nine dwelling development¹ (the wider application site).

6. Other recent residential development along Ashby Road, including the nine houses to the north of the appeal site, is generally set back behind areas of tree and grass planting. This gives the layout of the houses an openness and spaciousness which contributes positively to the semi-rural character of the approach to Ullesthorpe.
7. It was acknowledged that the loss of the open character of the wider application site would cause some harm to the character and appearance of the area, in the Council's officer report, but with good landscaping and materials and with the retention of relevant buffers, hedgerows and green space, it was considered that the development could be accommodated without significant harm. Part of this assessment was also predicated on the use of well-designed dwellings within spacious plots, creating a more spacious feel.
8. Condition 15 of the outline approval on the wider application site required that the landscape scheme to be carried out in accordance with the approved details prior to the first occupation of the dwelling(s). The approved landscape scheme required the appeal site be overseeded with a general-purpose meadow seed mix.
9. Condition 16 of the outline approval on the wider application site required the submission and approval of a landscape management plan and based on the evidence before me this was submitted and approved. The landscape management plan acknowledged that the appeal site was to be retained as existing grassland with overseeding using a general-purpose meadow seed mix. Based on the submitted evidence and what I saw on site, this overseeding had been established. As such, this is what has been approved to be undertaken on the appeal site. However, the approved details did not secure the ongoing use or management of the appeal site as formal open space.
10. Notwithstanding that the existing permission may not be entirely clear that the appeal site would be secured as formal open space, even if it was left unmanaged, the open and undeveloped appearance of the appeal site contributes towards the openness and spaciousness of the area on this approach into Ullesthorpe. As such, it makes a positive contribution to the area's semi-rural character. The trees and hedges that bound the appeal site with Ashby Road as well as those around the wider application site also positively contribute towards the semi-rural character of the area and partly screen the development to the rear of them.
11. From further afield on the approach into Ullesthorpe, the scheme would generally be enclosed by existing development on Leas Close which would limit its effect upon the wider landscape outside of the settlement. The proposal would reuse the existing access road, and the magnitude of the change wrought by this development would lessen over time. However, the proposed development would result in houses being built along a significant proportion of the frontage of the wider application site, close to Ashby Road which would be where the effect of the development upon the local landscape character would be most keenly appreciated.

¹ Application Ref: 18/01577/OUT and 21/01123/REM

12. The proposed plots would appear to be more densely developed than those that were approved on the wider application site, generally with smaller front and rear gardens, particularly for plots 3-7. Additionally, the wider application site was considered with the appeal site as part of it which meant the overall density of the approved development would have been much lower than this scheme which would build upon the appeal site. This would result in the loss of the landscaping and relevant buffers which were identified in the Officer's Report as a positive feature of the approved development on the wider application site.
13. While a thin area of landscaping along the frontage and around Plot 1 would be retained and supplemented, the scheme alongside the approved development, would create an appreciably denser form of development and would bring the dwellings closer to the boundaries of the wider application site. The scale and massing would be more appreciable due to the limited set back and the loss of open space between the approved dwellings and the dwellings on the opposite side of the site. The proposed development across most of the wider application site would appear more intensive within the area in a manner that would erode the open and spacious character established by other developments in the area, including the approved development on the wider application site. The scheme would not integrate with the prevailing arrangement of buildings and open space in the wider context. The Framework sets out that decisions should support development that makes efficient use of land taking into account the desirability of maintaining an area's prevailing character and setting and for the reasons given above, this scheme would fail to do this.
14. The appeal site formed part of a wider parcel of land that was identified within the Landscape Character Assessment and Landscape Capacity Study (LCALCS) as an area with high capacity for development. In terms of the suitability for development and mitigation measures set out in the LCALCS for Parcel 11 which the appeal site forms part of, the proposed development would generally accord with these. Whilst the site is located within a parcel that is identified as having a high capacity for development, for the reasons given above, the development as proposed would not maintain the area's prevailing character and setting and would cause harm within the local landscape.
15. The scale of the development would not be disproportionate to the scale of Ullesthorpe and the small private driveway proposed to the front of the site to make use of the wider area would seek to retain the openness at the entrance of the site. However, given that the scheme would fundamentally erode the openness of the rest of the site and the positive contribution this makes towards the local landscape character, these matters would not overcome the above concerns.
16. The proposed retention and additional planting of trees and hedges along the boundary of the appeal site with Ashby Road would retain this positive feature of the area and would be consistent with part of Policy GD2 of the Harborough Local Plan (LP). However, the development of most of this wider site would fail to use appropriate landscaping to integrate well within the local landscape setting in this edge of village location.
17. For the reasons given above, the development would significantly harm the character and appearance of the area. Therefore, it would conflict with Policies GD2 and GD8 of the LP insofar as those policies expect developments to respect the form and character of the settlement and achieve a high standard of design,

taking into account the context and the characteristics of the surroundings to ensure it is integrated as far as possible into the existing built form.

Ecology

18. The proposed scheme would result in most of the appeal site being built upon, but the dwellings would generally have front and rear gardens, including a small area of open space and the trees and hedges around the boundaries would be retained with additional planting.
19. Condition 17 of the outline approval on the wider application site required the submission and approval of a scheme for the enhancement of the site for biodiversity purposes, including a timescale for implementation. However, I haven't been made aware that a timetable has been approved for when the enhancements should take place on the appeal site. Furthermore, the scheme for enhancements did not identify what enhancements should occur on the appeal site. As such, it is not evident that the details approved by condition 17 would secure biodiversity enhancements on the appeal site.
20. Condition 5 of the reserved matters approval on the wider application site required the recommended scheme of ecology enhancements to be implemented and managed in accordance with details within the Extended Phase 1 Habitat Survey. That survey identified a number of opportunities for biodiversity enhancements but does not identify the timing for the delivery of said enhancements nor does it propose any on-going management or retention. As such, it is not clear the condition and the information that supports it would secure ecological enhancements on the appeal site.
21. As discussed earlier in this decision, the landscape scheme approved to discharge condition 15 of the outline approval set out that most of the appeal site would be retained as grassland with overseeding using a general-purpose meadow seed mix and it is evident this overseeding was undertaken.
22. The landscape management plan approved to discharge condition 16 of the outline approval acknowledged that the appeal site was to be retained as existing grassland with overseeding using a general-purpose meadow seed mix. Whether the matters secured via condition 17 would ensure the land would be managed or secure biodiversity enhancements beyond that is questionable given the form of the condition and the information submitted to discharge it. However, the grassland with wildflower meadow as approved in the landscape scheme and landscape management plan has been established on the appeal site.
23. The ecological reports that have been submitted with this appeal related to the wider application site and included enhancements and measures relevant to that application with much of those enhancements and measures outside of the appeal site.
24. An up-to-date ecological appraisal was not submitted with this appeal and as such, I do not have an up-to-date assessment of what biodiversity was on or around the site or the environmental value of it. Whilst the Council may not have requested an ecological appraisal it is the appellants responsibility to ensure schemes are supported by necessary and relevant evidence.

25. The appellant has suggested biodiversity enhancements including planting pollinators in front and rear gardens and permeable boundaries, bird and bat boxes, bee bricks and hedgehog domes.
26. Based on the information before me the grassland with overseeding has been established on the appeal site. Even if the long-term management of the appeal site may not be secured via the details submitted to discharge the conditions, the established wildflowers provide a mix of pollinators that positively contribute towards the biodiversity and environmental value of the appeal site and the wildflowers can support ecology within the wider area nearby.
27. The proposed scheme would result in much of the appeal site being developed with only relatively small areas left undeveloped, like the front and rear gardens and the permeable boundaries. The size of the land retained for front and rear gardens and permeable boundaries would be significantly smaller than the existing seeded area. Whilst the ongoing management of these areas could be managed through details secured via conditions, even if this land was overseeded with pollinators the appeal scheme would lead to a significant loss of grassland and wildflower meadowland. Additionally, it is not evident that all of the measures could be secured given that some would be located within private gardens. The occupiers could enhance the biodiversity value of their gardens; however, this would be difficult to enforce by condition, especially within rear gardens. The bird and bat boxes, bee bricks and hedgehog domes could provide a biodiversity benefit. However, without evidence to determine otherwise, it is not clear that these enhancements would lead to an improvement in biodiversity and that there would be no net loss of environmental value.
28. Given that an up-to-date ecological appraisal was not submitted there is no robust evidence that significant harm would not occur to biodiversity resulting from the development as well as ensuring the scheme would not harm protected or priority species on and around the site. Without such information I cannot determine that if there was significant harm that the proposed mitigation measures would adequately mitigate this harm or, as a last resort, compensate for it. In this instance, paragraph 193a) of the Framework indicates that planning permission should be refused.
29. In light of these concerns there is insufficient evidence that the appellant's suggested conditions to secure mitigation measures, amongst other matters, would make the development acceptable in planning terms.
30. I am not satisfied that sufficient information has been provided to enable me to determine that there would not be a harmful effect on the ecology and biodiversity of the site and its surroundings. Therefore, the proposal would be contrary to Policy GI5 of the LP which seeks, amongst other matters, for development to protect and improve biodiversity and for there to be no net loss of environmental value.

Other Matter

31. The appellant states that the occupiers of Leas Close did not object to the application, however the Council state that it was informed that the owners of the existing dwellings on Leas Close had signed an agreement preventing them from making negative comments about any proposed development on the wider site.

Regardless of whether this was the case or not, even if no objections were made, I am not aware that letters of support were received either.

Planning Balance and Conclusion

32. The Council's 5-year supply of Housing Statement for Housing Development January 2025 identified that it could only demonstrate a 3.55 years supply of sites for housing. Accordingly, paragraph 11d) of the Framework states that in these circumstances, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
33. The site is located near to services and facilities that could be accessed via transport modes other than the private car. The proposed development would deliver seven dwellings, and taking into consideration the Council's shortfall in housing supply these would make a modest contribution towards the Council's housing land supply as well as support the Government's objective of significantly boosting the supply of homes. There would be short term and long term economic benefits during construction as well as from the ongoing patronage of services and facilities in the area by the occupiers of the development. The occupants would also contribute towards the social fabric of the area and the Framework promotes housing where it will enhance or maintain the vitality of rural communities.
34. The intention to promote the biodiversity enhancements on the wider application site that have already been approved should be delivered regardless of the outcome of this appeal. As such, they weigh neither for nor against the scheme.
35. Matters concerning anti-social behaviour on the appeal site could be addressed regardless of the outcome of this appeal.
36. Taking into account the above considerations, I attribute moderate weight to the benefits in favour of the scheme.
37. The proposal would harm the character and appearance of the area and biodiversity, and this would result in a conflict with relevant development plan policies.
38. Policies GD2 and GD8 of the LP expect developments to respect the form and character of the settlement and achieve a high standard of design, taking into account the context and the characteristics of the surroundings to ensure it is integrated as far as possible into the existing built form. This is consistent with paragraph 135c) of the Framework insofar as it expects developments to be sympathetic to local character, including the surrounding built environment.
39. Paragraph 187d) of the Framework states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. Furthermore, Paragraph 193a) of the Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. There is insufficient information before me to determine that significant harm to biodiversity cannot be avoided, adequately mitigated, or compensated for. Policy GI5 of the LP seeks for development to protect and improve biodiversity and for there to be no net loss of environmental

value which is consistent with the Framework in this regard. This matter, alongside the harm to the character and appearance of the area weighs significantly against allowing the appeal.

40. Taking the above into consideration, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and having particular regard to the policies referenced in footnote 9. Consequently, the presumption in favour of sustainable development would not apply.
41. Therefore, the proposed development would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR