



Appeal Decision

Hearing held on 22 May 2024

Site visit made on 22 May 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2024

Appeal Ref: APP/F2415/W/24/3338486

Land adjoining The Causeway, Church Causeway, Church Langton, Market Harborough LE16 7SU

- 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 Clarity Property Alpha Limited against the decision of Harborough District Council.
 - The application Ref is 23/01583/OUT.
 - The development proposed is two serviced plots for self-build and custom housebuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with access to be considered as a detailed matter, with appearance, landscaping, layout and scale reserved for future consideration. I have therefore considered all details relating to these reserved matters as indicative.
3. I have removed the address of the site and other wording from the development description above as it does not describe development.
4. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). Both main parties had opportunity to comments on this at the Hearing, and I am satisfied that no party would be prejudiced by making reference to the Framework in this decision.
5. The Council set out in their submissions that Policies DBE3 and ENV2 of the East Langton Parish Neighbourhood Plan Review (2011-2031) (NP) referred to in the refusal reason or in the officer report, are not determinative. They refer to, respectively, Design and Other Environmentally Significant Sites. I have no reason to disagree in this respect, and as such, I have not taken these policies into account.

Main Issues

6. The main issues in this case are:
 - whether the appeal site is a suitable location for the proposal having regard to the development plan and national strategy; and

- the effect of the proposal on the character and appearance of the area, including the area of separation and whether it would preserve or enhance the setting of the Church Langton Conservation Area (CA).

Reasons

Location

7. Policy SS1 of the Harborough Local Plan (2019) (LP) sets out the spatial strategy for the district and seeks to direct development to appropriate locations, in accordance with a settlement hierarchy. The fifth tier of the settlement hierarchy refers to 'Selected Rural Villages' and includes Church and East Langton.
8. The appeal site sits outside the settlement boundary of Church Langton, as defined by the NP. NP Policy H2 (Settlement Boundaries) confirms that land outside the settlement boundary will be treated as open countryside *'where development will be carefully controlled in line with local and national strategic planning policies'*.
9. The Council confirmed at the hearing that LP Policy GD2 of the Local Plan is considered a strategic policy, which sets out amongst other things, that in addition to sites allocated in the LP and neighbourhood plans, development *'adjoining the existing or committed built up area'* of Selected Rural Villages will be permitted subject to several criteria. In addition, another strategic policy, LP Policy GD4 also sets out instances where 'New housing in the countryside' will be permitted. It allows for housing on small sites of no more than 4 dwellings which are within or physically and visually connected to settlements, which meet a local need for housing of a particular type.
10. The term 'adjoining' is not defined within the development plan, however, as established by the courts¹, it does not mean contiguous but rather has a broader meaning which is a matter of planning judgement.
11. The built form of Church Langdon becomes more sporadic in extending south from the core out of the settlement, particularly on the western side of the highway where open fields are visible through the roadside vegetation. The appeal site sits on this sparsely developed western side of Church Causeway and forms part of a larger grassed area which sits either side and to the rear of the substantial two-storey detached dwelling at 'The Causeway'. The wider site is enclosed by mature trees and hedgerows and forms a visual barrier and edge to the built form of the settlement.
12. The location of the appeal site within this existing open space, next to the open paddock means that there is a significant gap between the site and the built up area of Church Langdon on this side of the highway. Whilst the nearest dwelling within the settlement boundary, 'Ashleigh', in part sits directly on the opposite side of Church Causeway to the appeal site, I observed that the site has the feeling of being more closely related to surrounding open space and countryside than the existing built up area. The large open space to the rear and the existing open and verdant character of the site would remain. As such, it would not appear to be a part of, nor adjoin the existing or committed built up area.

¹ Corbett v Cornwall

13. Therefore, the development would not adjoin the existing built up area of Church Langdon, and would not therefore accord with requirement 2 of LP Policy GD2. It is noteworthy that the previous Inspector² found similarly in terms of this matter, and no material changes in terms of the site or policy context has occurred since this decision.
14. The appellant has provided numerous examples³ of other development both within this district and elsewhere, where development has been found to meet the criteria of 'adjoining'. However, the broader meaning of the term requiring planning judgment is based upon the site specific circumstances and context of each proposal, the adjacent pattern of development, and how the proposal would be viewed and experienced 'on the ground'.
15. There are therefore no set and defined distances or thresholds between sites and the nearest dwellings that would mean that a development meets this criterion, and none is set out within the policy. I therefore cannot give any of these examples much weight in terms of precedence. This is also the case in relation to examples given in relation to the issue of physical and visual connection.
16. There is no dispute between the parties that self-build and custom housebuilding would meet the requirement of 'housing of a particular type' and I have no reason to disagree in this respect. However, there is no definition of 'physically and visually connected' provided, and again therefore, its consideration is based upon the site context. As such, little weight can also be given to the examples of development elsewhere provided pertaining to this matter.
17. Given the visual gap between the appeal site and the built up area of Church Causeway, as set out above, the proposed development would not be closely related to the built up area of Church Langdon and rather, would be seen in the context of the surrounding open space.
18. Whilst the site could be seen from dwellings within the settlement boundary and vice versa, given the flat open fields surrounding the settlement, this would also be true of sites some substantial distance away. As such, visibility does not necessarily infer visual connection.
19. As such, even if the dwellings were secured as self build/custom units and the pavement/footpath and PROW directly adjacent to the appeal site could mean that the site is physically connected to the settlement, the lack of visual connection means that the proposal would not meet the requirements of LP Policy GD4.
20. I conclude therefore that the appeal site is not suitably located for the proposal as it would undermine the strategic objectives of the development plan and would conflict with the sustainable development principles and plan-led approach endorsed by the Framework.
21. The proposal would conflict with LP Policies GD2 and GD4 and would also therefore conflict with the requirements of NP Policy H2, which requires compliance with GD2, and LP Policy H5, which supports proposals for self build

² Appeal reference APP/F2415/W/22/3300733, March 2023

³ Mostly included within document titled "'adjoining' & HDC LP Policy GD2 Settlement Development'.

and custom housebuilding in any location suitable for housing, including sites which are in accordance with Policy GD2.

22. The refusal reason also refers to NP Policy H3, however this relates to infill sites within defined settlement boundaries, and as such is not determinative in this instance.

Character and appearance

23. As set out above, the appeal site sits on the sparsely developed western side of Church Causeway. It forms part of a larger grassed area which sits either side and to the rear of the substantial two-storey detached dwelling at 'The Causeway'. The wider site is enclosed by mature trees and hedgerows.
24. The appeal site sits outside but next to the boundary of the CA. The Church Langton Conservation Area 'Record details' sets out that the significance of the CA primarily derives from the arrangement of the listed buildings St. Peters Church, the Old Rectory and Leadclune Court, which dominate the village core. The wedge of paddock land to the south between Church Causeway and Stonton Road is within the CA and provides a setting for Leadclune Court. The appeal site is part of open space which sits south of this paddock, and further provides an open pastoral character to the edge of the CA which positively contributes to this setting and its significance.
25. The development would sit adjacent to the substantial two storey detached property at The Causeway, and, unlike the previous proposal for 8 dwellings on this site, its built footprint would not extend further to the rear into the open space than this property. I observed that The Causeway is clearly visible not only from the highway, but, whilst mostly screened by trees and hedgerow, in glimpses from the Public Right of Way A81 (PROW) to the north of the site and in particular in a gap in the hedgerow to the western side of the field.
26. Whilst the proposal would bring development closer to the PROW therefore, it would generally be seen from the same view points as, and seen with, The Causeway. Whilst the submitted Tree Survey⁴ raises the possibility of Ash Dieback along the northern boundary, it is not as yet identified with certainty. Were I minded to allow the appeal, a condition could ensure that the existing level of screening and verdant character is maintained.
27. The large open space remaining to the rear would retain the general open, verdant, spacious and pastoral character of the wider site. Given the limited scale of development, it would not appear urbanising and would sit comfortably within the sparsely developed western side of Church Causeway.
28. The proposed access would sit in close proximity to the larger access opposite to the development at Hanbury Gardens and would not be incongruous nor urbanising in this context. Other than access, the submitted site plan is illustrative only, and issues relating to scale, siting and design, including the orientation and height of the properties, would be assessed and addressed at reserved matters stage, were the appeal allowed. There is nothing before me to indicate that the site would not be capable of accommodating two units that would sit comfortably within the established pattern and height of the surrounding development.

⁴ Tree Survey Impact Assessment & Method Statement by RJ Tree Services Ltd June 2021

29. As such, the development would have a neutral effect that would not harm the setting or the significance of the CA and would preserve its character and appearance.
30. There is no dispute that the site is located within an Area of Separation (AOS), as defined by the neighbourhood plan. The wording of NP Policy ENV6 does not exclude all development, but rather sets out that development within the AOS, *'which would reduce the area of separation between Church Langton and East Langton'* (and between East Langton and West Langton Parish boundary) would not be supported. The supporting text makes it clear that the intention of the policy is to maintain the separation of the communities as it is important to ensure that the distinct identity and character of these villages is maintained.
31. The substantial property at The Causeway sits between the appeal site and East Langton. As set out above, the development would be seen in the context of this neighbouring property from both the PROW and Church Causeway and would not extend built form into the rear past this property. In addition, there would remain a sufficient separation gap between the appeal site and the side elevation of The Causeway that would allow views through from the highway to the open fields behind. As such, the spacious appearance of the land around The Causeway would remain, when viewed from the highway or the PROW or indeed any other footpath. The development would not reduce the perceived separation between the villages and their distinct identities would be maintained. As such, I find no conflict with NP Policy ENV6.
32. I conclude that the development would not harm the character and appearance of the area, including the AOS, and would preserve the setting of the Church Langton CA. I therefore find no conflict with LP Policy HC1, which seeks to protect built heritage, including the setting of Conservation Areas, nor the separation of settlement protection goals of NP Policy ENV6. There is no conflict with the well-designed and beautiful places goals of the Framework.

Other Matters

33. The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) states that an authority must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period.
34. Section 123 of the Levelling-up and Regeneration Act 2023 (s123) makes it clear that demand is evidenced not by the number of people on the register at any one time but by the number of entries added to the register in each base period. Nevertheless, at the hearing the Council set out that their demand figures were based upon the number of people requesting to be on the register, and that subsequently, if requested, the entry was removed. As such, the Council accepted its figures in this regard were 'probably not accurate'.
35. In addition, at the hearing the Council also set out that their figures for qualifying permissions were based on approved developments that had self build or custom build in the description or accompanying documents. Regulations are still awaited that will define exactly what can be counted as a development permission. However, the recent amendments by s123 mean that a development permission now only counts in meeting the duty if it is actually

for self-build or custom housebuilding and the government have indicated that it is likely to require that for a permission to count it will need to be secured as such, making that requirement explicit. At the hearing the Council did not dispute the information provided by the appellant that sets out that a number of their qualifying permissions were not secured through a planning obligation for example. Therefore, the qualifying permission figures provided by the Council are also likely to be inaccurate.

36. Given the inaccuracy of the Council's figures, I have no reason to doubt that the true figures are far more likely to be closer to those submitted by the appellant⁵, which indicate a far greater size of deficit. Nevertheless, the Council indicated that, even based on its own figures, the deficit within the authority's area is 'significant', and that 'positive to substantial' weight should be given to this deficit.
37. The statutory duty of the Council to meet the demand for self-build and custom housebuilding is an important material consideration. The Council is failing by a very large margin to meet this demand and the submitted evidence indicates that it will fail to do so in forthcoming years by an even larger extent as more recent register entries feed through into the base period calculations.
38. However, as set out above, to meet the legislative requirements for custom/self build housing, and therefore meet the statutory duty, developments must be adequately secured as such.
39. The parties have suggested that a condition would ensure that the proposed dwellings are secured as serviced plots for self-build and custom housebuilding. In order to meet the requirements of Framework paragraph 56, conditions must be enforceable.
40. There are numerous enforceability issues with the condition as proposed. Firstly, in relation to knowing for sure that the person building the house will live in it, meaning enforcement action is unlikely to be possible until the house is completely built and occupied.
41. Secondly, if the LPA did not consider that the occupier was a person who had primary input into the design, and took enforcement action, in order to comply, the third party would have to get the person who built the house (and presumably sold it to them) to return to live in the property. It would be impractical and unreasonable to require this. In such circumstances, it is likely that enforcement action would also be unreasonable.
42. I therefore do not consider that a condition in this instance would meet the tests of the Framework. In the absence of an appropriate mechanism to secure the development as self-build and custom housebuilding, I cannot give any weight to the contribution that the appeal scheme would make in helping to address the Council's shortfall in this respect. I note the previous appeal example⁶ where such a condition has been accepted, however, whilst this is a material consideration, for the reasons set out above, I have come to a different conclusion.

⁵ Table 1.1 of Harborough District Council Self-build and Custom Housebuilding Register and Permissions as of 29 January 2024

⁶ Appeal reference APP/F2415/W/22/3303898

43. The proposal would result in 2 additional windfall units of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes, in a location with good access to services and facilities, as supported by Framework. The proposal would result in short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the units. However, given the quantum of development in this case, I give these matters limited weight in favour of the scheme. In addition, given the scale of development, limited weight can be given to any secured biodiversity enhancements.
44. Applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the location of the proposed development would be in conflict with the spatial strategy of the development plan. The minor benefits outlined above do not outweigh this identified harm.

Conclusion

45. For the reasons given above I conclude that the appeal is dismissed.

B Phillips

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ronan Donahoe - Clarity Property Alpha Limited

FOR THE LOCAL AUTHORITY:

Nicola Parry - Development Management Team Leader - Harborough District Council

Jo Christopher - Senior Planning Policy Officer - Harborough District Council

Matthew Bills - Neighbourhood and Green Spaces Officer - Harborough District Council

Simon Kolka - Parish Councillor

DOCUMENTS SUBMITTED AT THE HEARING

Officer report for planning application reference 24/00216/OUT at South View Farm, Main Street, Tur Langton.