

APPEAL STATEMENT

**October
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GHMPLANNING

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TOWN AND COUNTRY PLANNING ACT

1990

SECTION 78 APPEAL

STATEMENT FOR THE APPELLANT

APPELLANT: Mr G Warren, Invicta Universal Ltd.

APPEAL SITE: Land to the rear of Valley View,
Station Road, Desford,
Leicestershire.

LPA REFERENCE: 24/01145/FUL

REASON FOR APPEAL: Refusal of planning application
for the erection of a bungalow.

1.0 Introduction

1.1 This statement sets out the appellant's case in relation to the refusal of the planning application 24/01145/FUL for the erection of a bungalow.

1.2 The application was refused on the following grounds:

The proposal represents new and unjustified residential development in the designated open countryside. By virtue of its size, scale, layout, siting, design, and architectural features, the development results in the creation of new ribbon development and causes significant and permanent adverse impacts to the character of the site, the surrounding area, and the intrinsic value, beauty, open character and landscape character of the countryside. This harm is exacerbated by the visual prominence of the development from Public Footpath R93.

Therefore, the proposal is contrary to, and in conflict with, Policies H1 and H7 of the adopted Desford Neighbourhood Plan (2021), Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Chapters 2, 12, and 15, including Key Policy Paragraphs 129 and 135, of the National Planning Policy Framework (2024), the Good Design Guide (2020), and the National Design Guide (2019). As a result, the scheme is not considered to be well designed and fails to reflect local design policies and government guidance on design. The adverse impacts of the development significantly and demonstrably outweigh the benefits of the scheme in these site-specific circumstances. In accordance with Key Policy Paragraph 139 of the NPPF, the development is refused

2.0 The Appeal Site and Surroundings

2.1 The site comprises an area of 2,919 square metres and is located to the north-west of Station Road. The application site consists of grassland and two timber stables. The land levels slope down from Valley View to the application site by approximately 6 metres. The site is immediately adjacent to the tennis court associated with the flats at Valley View, which lies on land that is 3 metres higher than the application site.

2.2 The existing boundaries to the site comprise post and rail fencing to the north, and mature trees and vegetation to the eastern and western boundaries.

2.3 Beyond the western, northern, and north-eastern boundaries of the site are agricultural fields. Public Footpath R93 runs to the north of the proposed development and through the application site in a north-eastern to western direction. To the east of the site, is Station Road, from which the application site includes an existing vehicle access.

2.4 Beyond Station Road is The Cottage, a dwelling set within significant grounds. To the south of the site beyond Valley View is the wider built settlement of Desford.

3.0 The Proposal

- 3.1 The proposal comprised a full application for the erection of a single storey, detached, three-bedroom bungalow at land to the rear of Valley View, Station Road, Desford. To facilitate the proposal, two timber stables would be demolished.
- 3.2 The proposed dwelling would be an L-shaped property of a footprint comprising 236.9 square metres and would comprise three elements with the two main highest roofs having a ridge height of 4.9 metres and an eaves height of 2.7 metres. The northern element of the scheme reduces in height to 4.4 metres in height with an eaves height of 2.3 metres.
- 3.3 The proposal would include a wooden porch on the north-western elevation and two stone chimneys on the south-eastern elevation. The development would be constructed predominantly with an off-white monocouche render above a 0.6-metre-high stone plinth and a slate roof. The northern element of the scheme would be constructed with vertical cedar cladding.
- 3.4 The property would be accessed via the private access drive.
- 3.5 The site is bounded by 1.2m post and rail fencing, including the proposed pathway that runs to the side of Valley View.

4.0 Site History

- 4.1 20/00018/PP - Sub-division and extensions to existing dwellinghouse to form 5 apartments, erection of 4 dwellinghouses and alterations to existing access - Appeal Allowed.
- 4.2 19/01411/FUL - Sub-division and extensions to existing dwellinghouse to form 5 apartments, erection of 4 dwellinghouses and alterations to existing access – Refused.
- 4.3 13/00110/CLUE - The use of land as existing garden land – Permitted.
- 4.4 93/00117/4 - Erection of one house – Refused.
- 4.5 87/00255/4 - Change of use from agricultural to garden land and construction of tennis court – Permitted.

5.0 Planning Policies

- 5.1 The Development Plan comprises the Core Strategy, Site Allocations and Development Management Policies Development Plan and the Desford Neighbourhood Plan. The relevant policies are set out below:

Core Strategy (2009):

- | | |
|------------|---|
| -Policy 7 | Key Rural Centres |
| -Policy 8 | Key Rural Centres Relating to Leicester |
| -Policy 16 | Housing Density, Mix and Design |

Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

-Policy DM1	Presumption in Favour of Sustainable Development
-Policy DM4	Safeguarding the Countryside and Settlement Separation
-Policy DM6	Enhancement of Biodiversity and Geological Interest
-Policy DM7	Preventing Pollution and Flooding
-Policy DM10	Development and Design
-Policy DM17	Highways and Transportation
-Policy DM18	Vehicle Parking Standards

Desford Neighbourhood Plan 2018 – 2036 (DNP) (2021):

-Policy H1	Settlement Boundary
-Policy H7	Housing Design
-Policy ENV3	Biodiversity General
-Policy T1	Traffic Management

5.2 Other relevant policies and guidance is set out below:

National Planning Policy Framework (NPPF) (2024)

National Design Guide (2019)

Planning Practice Guidance (PPG)

Good Design Guide (2020)

The Council's Landscape Character Assessment (2017)

Leicestershire Highway Design Guide (LHDG) (2024)

Technical Housing Standards – Nationally Described Space Standards (2015)

6.0 The Appellant's Case

6.1 The proposal comprises the demolition of the stable building and the erection of a single storey dwelling. In terms of land use Policy H1 of the DNP confirms that the land is outside the defined settlement boundary of Desford. As such, it would be treated as open countryside, where development will be carefully controlled in line with local and national planning policies.

6.2 Policy DM4 of the SADMP then states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development.

6.3 Policy DM4 also supports development in the countryside sustainable where:

(a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or

(b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or

(c) It significantly contributes to economic growth, job creation and/or

diversification of rural businesses; or

(d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or

(e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.

- 6.4 The proposal does not relate to, or comply with, any of the criteria in Policy DM4. As such, based solely on consideration of these land use policies, the proposal is contrary to the Development Plan, being residential development in the open countryside.
- 6.5 However, Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. The overall aim should be to meet an area's identified housing need, including an appropriate mix of housing types for the local community.
- 6.6 Paragraph 73 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built out relatively quickly.
- 6.7 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 6.8 The Council are currently reviewing the latest revisions to the NPPF and the implications for the Council's five-year housing land supply with a revised position to be published imminently. However, the Council accept that with the revised need figure of 682 dwellings (649dpa + 5% buffer as per paragraphs 62 and 78(a) of the NPPF), the Council will be unable to demonstrate a five-year housing land supply. This also means the Council cannot currently demonstrate the required housing land supply, a position that influences the decisions taken on applications and appeals.
- 6.9 As the Council cannot demonstrate the required five-year housing land supply the tilted balance applies. In this case although only a single dwelling is proposed, paragraph 73 of the NPPF confirms that small sites can make an important contribution to meeting the housing requirements of an area, are essential for small and medium enterprise builders and tend to be built out quickly.
- 6.10 It is therefore considered that the proposed dwelling would make a telling contribution to the housing stock of the borough. It is acknowledged that the

Council considers the benefit of providing one dwelling should attract limited weight in the decision-making process. However, the Council cannot demonstrate their five-year housing land supply, this appeal would provide a dwelling and accumulatively such sites would make a significant contribution to the shortfall of housing.

- 6.11 The appellant therefore considers the principle of development to be acceptable.
- 6.12 The proposal relates to the erection of a dwelling. This would be single storey, of limited height, footprint and scale with the massing effectively reduced by the use of a L-shaped design. The building would be set well back from the public highway, on a well landscaped site and would be neither prominent nor dominant. The site also benefits from significant mature landscaping with the adjacent highway bordered by hedges which prevents clear views into the site.
- 6.13 Furthermore, the site also accommodates the stable building which occupies a significant footprint and the impact of the proposed dwelling must take the existing building and its impact on the site and surroundings as the baseline visually.
- 6.14 Policy DM4(i) and (iii) of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside and it does not create or exacerbate ribbon development.
- 6.15 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 6.16 Policy H7(a) of the DNP states that new development should enhance and reinforce the local distinctiveness and character of the area in which it is situated, particularly within the conservation area. Care should be taken to ensure that the development does not disrupt the visual amenities of the street scene and impact negatively on any significant wider landscape views.
- 6.17 Policy H7(c) of the DNP requires all new housing to continue to reflect the character and historic context of existing developments within the Parish and incorporate a diversity of materials. However, contemporary and innovative design and materials will be supported where positive improvements can be robustly demonstrated without detracting from the historic context.
- 6.18 Policy H7(d) of the DNP then states that developments should be enhanced by fostering biodiversity and landscaping with existing trees and hedges preserved whenever possible.
- 6.19 As stated above, the combination of the presence of existing landscaping along Station Road, the single storey nature of the proposed dwelling and the separation distance from the highway, would ensure that the development would not be visually prominent from public views from Station Road. This is a

viewpoint shared by the Local Planning Authority.

- 6.20 Public Footpath R93 runs to the north of the proposed development and through the application site in a north-eastern to western direction; this affords views of the site. Users of the footpath already view the stable building and as such view a developed site. The proposed development would result in a more developed and domestic appearance; however, the footpath is set away from the dwelling, the dwelling would occupy only a limited footprint and the impact on users of the footpath would be limited. The experience would be short timewise as it would take only a few seconds to walk past the site on this part of the footpath. It is not uncommon to experience different vistas on any long-distance footpath. The visual impact of the proposed dwelling would be a short lasting, insignificant visual experience. As such, it is not considered there are reasonable grounds to resist the proposal on the grounds of the visual impact of users of the public footpath. It is also an important point to note that the land forms part of a residential curtilage already.
- 6.21 It is therefore considered that the proposed dwelling would not be unduly prominent or dominant, would occupy a well-landscaped site that is not prominent and would have no unduly harmful impact on users of the adjacent footpath.
- 6.22 Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 6.23 The Good Design Guide requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity.
- 6.24 The proposed dwelling would be in excess of 50 metres north of Valley View and given this distance, the single storey nature of the proposal and the changes in land levels between the two sites, the proposal would not result in significant harm to the occupiers of Valley View or the future occupants of the proposal through overlooking or loss of privacy between the two buildings.
- 6.25 An aim of Section 4 (New Residential Development) within The Good Design Guide is to ensure that new residential development exceeds the internal space standards set by the Nationally Described Space Standards (NDSS) (2015).
- 6.26 Proposals for three-bedroom, single storey dwellings should provide a minimum of 74sqm of floor space and 2.5sqm of built-in storage in accordance with the NDSS.
- 6.27 In accordance with Paragraph 10(c) of the NDSS, to provide one bed space, a single bedroom should have a floor area of at least 7.5sqm, and a width of at least 2.15 metres. In order to provide two bed spaces, a double or twin bedroom should have a floor area of at least 11.5 metres, and a width of 2.75 metres for

the master bedroom, and a width of 2.55 metres for every other bedroom in accordance with Paragraphs 10(d) and (e) of the NDSS.

- 6.28 The property exceeds all the requirements of the NDSS.
- 6.29 To comply with the Good Design Guide, three-bedroom houses should also provide a minimum of 80sqm of private outdoor amenity space with a minimum length of 7 metres. The size of proposed private outdoor amenity space significantly exceeds the requirements of the Good Design Guide.
- 6.30 The Council note that although there is a chance that the proposed dwelling and its amenity space could be overlooked by the residents of Valley View, this is only within the wider residential garden space of the properties, and this could effectively be addressed by a planning condition to control boundary treatment.
- 6.31 It is therefore considered that the proposal is acceptable on the grounds of residential amenity.
- 6.32 The proposal would be served by the existing access onto Station Road, which is a classified C road. The proposal would enhance this access to provide a width of 6 metres for a distance of 11 metres behind the highway boundary. The scheme also includes a passing bay with parking and turning adjacent to the proposed dwelling.
- 6.33 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe. Proposals for new development should also adhere to the highway design standards set out in the Leicestershire Highway Design Guide (LHDG)) (2024).
- 6.34 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. Policy H7(b) confirms that adequate off-road parking should be provided as a minimum of two car parking spaces for dwellings of three-bedrooms or less and three spaces for dwellings of four-bedrooms or more. Table 28 (Residential Parking Standards) of the LHDG requires dwellings with up to three bedrooms should provide a minimum of two off-street parking spaces.
- 6.35 The Council confirmed that a sufficient level of off-street parking would be provided to accord with Table 28 of the LHDG. Furthermore, the Local Highway Authority confirmed that the car parking space dimensions and the on-site turning provision accords with Figure 44 (Dimensions) of the LHDG.
- 6.36 The application site is crossed by Public Footpath R93. The proposals would not impact on the use of the footpath and the Council raised no objection on these grounds.
- 6.37 Policy T1 of the DNP states that all housing development must be designed to minimise additional traffic generation and movement through the villages and

incorporate sufficient off-road parking in line with Policy H7 of the DNP. Compliance with this has been demonstrated at the application stage, to the satisfaction of the Local Planning Authority.

- 6.38 Overall, on highway safety grounds, as a consultee of the planning application, the Local Highway Authority considered the proposed access to be acceptable for this scale of development. As such, the appellant is of the view that the proposal is acceptable on highway safety grounds.
- 6.39 The appellant is therefore of the view that the proposal is acceptable in land use terms, on visual grounds, residential amenity and highway safety.

7.0 Comments on the Case of the Council

- 7.1 The application was refused on the following grounds:

The proposal represents new and unjustified residential development in the designated open countryside. By virtue of its size, scale, layout, siting, design, and architectural features, the development results in the creation of new ribbon development and causes significant and permanent adverse impacts to the character of the site, the surrounding area, and the intrinsic value, beauty, open character and landscape character of the countryside. This harm is exacerbated by the visual prominence of the development from Public Footpath R93.

Therefore, the proposal is contrary to, and in conflict with, Policies H1 and H7 of the adopted Desford Neighbourhood Plan (2021), Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Chapters 2, 12, and 15, including Key Policy Paragraphs 129 and 135, of the National Planning Policy Framework (2024), the Good Design Guide (2020), and the National Design Guide (2019). As a result, the scheme is not considered to be well designed and fails to reflect local design policies and government guidance on design. The adverse impacts of the development significantly and demonstrably outweigh the benefits of the scheme in these site-specific circumstances. In accordance with Key Policy Paragraph 139 of the NPPF, the development is refused.

- 7.2 Therefore, the key issues are that the proposal represents unjustified residential development in the countryside, that the size, scale, layout, siting, design and architectural details would result in an adverse impact on the site, surrounding area and landscape, the proposal would represent ribbon development and would be visually prominent from the public footpath.
- 7.3 The Council stated that the site is in open countryside and is not supported by policy DM4. The appellant is of the view that policy DM4 is a restrictive land use policy that, by virtue of the Council not being able to demonstrate a five-year housing land supply, is out of date and the tilted balance applies. As such, the proposal cannot be ruled out simply because the site is beyond the settlement boundary.

- 7.4 The Council states it is likely to be unable to deliver a five-year supply of land for housing. The appellant is of the view that a stronger line can be taken on this and that the Council cannot demonstrate the required five-year housing supply.
- 7.5 The Council state that the benefit of providing one dwelling within this application site towards the Council's supply of housing is considered to attract limited weight in the planning balance.
- 7.6 The appellant is of the view that paragraph 73 of the NPPF confirms small sites can make an important contribution to meeting the housing requirements of an area, are essential for small and medium enterprise builders and tend to be built out quickly. Furthermore, the cumulative impact of single dwellings would make a telling contribution to the Council's housing supply. As such, it is considered that the proposal of even a single dwelling should attract significant weight in the planning balance.
- 7.7 The Council state that the stables, which are in a state of disrepair or ruin to the extent that they cannot be used for their intended use, are not suitable justification for the provision of a new independent dwelling in this location in the designated open countryside.
- 7.8 The appellant does not make that case; however, does consider that the visual impact of the existing buildings carries weight in the planning balance. The proposal seeks to remove these buildings and erect a dwelling; as such, the visual impact of the existing stables must be taken into account in the visual assessment and provide the visual baseline.
- 7.9 The Council stated that a residential property in this location would fundamentally alter the rural character of the site by introducing detrimental urbanising features into the designated open countryside. The appellant accepts the visual impact would alter; however, the visual impact of the proposed dwelling would be limited, the site already forms part of the residential curtilage and already accommodates a building.
- 7.10 The Council state the proposal would be visually prominent when viewed from the adjacent footpath. The appellant is of the view that the visual impact would be limited on users of the public footpath, having an extremely short-term visual impact which would not in any case be harmful. The footpath is a longer distance path during which time differing environments would be experienced.
- 7.11 The Council state that the proposal would encroach into the green and rural approach to and from Desford in the form of new ribbon development. The appellant is of the view that the proposed dwelling would replace an existing building and would not represent ribbon development. The definition of ribbon development is the building of houses along a main road, especially one leading out of a village. In this case, the proposed dwelling does not occupy a roadside location, would be set well back from the highway and would replace an existing building. Therefore, in terms of the pattern of development, the proposal would

mirror the existing. It would not be visible from the highway due to the separation distance and landscaping along the highway boundary.

- 7.12 The Council state that the proposed ridge height of the new development is significantly higher than the existing timber structures and that although the proposal retains a single storey massing, these increases in size, scale, and bulk are considered to result in significant harm to the character area.
- 7.13 The appellant is of the view that although the proposal would be larger than the stables, given the relatively small-scale nature of the proposals, the setting away from the public highway and the well-landscaped site, the proposal would not result in significant harm to the character of the area.

8.0 Conclusion

- 8.1 As the Council cannot demonstrate a five-year housing land supply the tilted balance applies. The site is well related to a sustainable settlement, bordering neighbouring dwellings and is physically well related to the village. The site occupies a backland location, set well back from the public highway. The application cannot be refused on land use terms and it is considered that the proposal would be visually acceptable, having a limited visual impact on the site, surroundings and users of the public footpath.
- 8.2 The Council raises no objections of the grounds of residential amenity or highway safety with their objections limited to the location and visual impact of the dwelling. The appellant has set out their case above to challenge this view.
- 8.3 It is therefore respectfully requested the appeal is allowed.