



Appeal Decision

Site visit made on 11 April 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2023

Appeal Ref: APP/K2420/W/22/3311536

**59 Merrylees Road, Newbold Heath, Newbold Verdon, Leicestershire
LE9 9NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Fairall against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 22/00801/FUL, dated 19 August 2022, was refused by notice dated 7 November 2022.
 - The development proposed is demolition of existing storage building and erection of detached dwelling and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. It has been brought to my attention that a Neighbourhood Plan for Newbold Verdon is currently emerging. However, as at an early stage, I attach limited weight to its emerging policies and shall consider the appeal on this basis.

Main Issues

3. The main issues are:
 - The effect upon the character and appearance of the area; and
 - Whether or not the site represents an appropriate location for new housing, having particular regard to the accessibility of facilities and services and the residential amenity of future occupiers of the development.

Reasons

Character and appearance

4. The site is located to the edge of Newbold Heath, a small rural settlement that is for the most part comprised of frontage development that addresses either Merrylees Road or the connecting Bagworth Road. As Newbold Heath is not bound by a designated settlement boundary, the site is located within the countryside as defined in local planning policy terms.
5. Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document (2016) (the SADMPDPD) indicates that, to protect the countryside's intrinsic value, beauty, open character and landscape character, only selected types of development in the countryside will be

- considered sustainable. These specified types of development do not include residential dwellings with unrestricted occupancy.
6. The appeal site, which is accessed via a track that also serves as a public right of way (the PRoW), incorporates areas of land situated to the side and rear of 59 Merrylees Road (No 59). Such land is predominantly grassed, but also incorporates elements of established planting, a pond, and an area of hardstanding. There are multiple buildings/structures intermittently positioned on the site, including a storage building intended to be demolished, a stable, and a summerhouse. These tend to be of either small scale or uncomplicated specification and appearance.
 7. Owing to the sparsity and composition of development upon it, the site, when also factoring in its openness and general verdant qualities, is read and experienced as a constituent part of the countryside. Indeed, except for with No 59, the site does not share an immediate/obvious relationship with road-fronting residential development and sits alongside various parcels of agricultural/rural land. Moreover, the site and its surroundings have a predominantly rural character and appearance.
 8. The proposed dwelling would incorporate two storeys of living space and rise to a full height of 8.31m. Also, it would be of modern design and incorporate a wide range of differently sized openings and other distinctly domestic features, such as roof dormers and a Juliette balcony. Whilst visibility from Merrylees Road would be restricted and/or softened by the presence of existing roadside development and planting, and by the influence of changing land levels, clear views of the proposed dwelling would, most particularly due to its height, be readily obtainable from the PRoW. This would be especially so upon arrival at Newbold Heath from the south.
 9. Whilst the existing storage building to be lost is sited immediately adjacent to the PRoW and can be easily seen currently, it is of inherently simple and utilitarian design. This promotes that it integrates coherently with its often-agricultural surroundings. In contrast, the proposed dwelling, to be of noticeably taller height and incorporative of a range of intrinsically residential features, would have a jarring and domesticating influence at odds with the predominantly rural character and appearance I have identified. I thus cannot accept that the scheme would respect the context of its surroundings.
 10. I note the appellant's intention to bolster existing on-site planting along, or in proximity to, the PRoW. However, new planting could not be relied upon to provide permanent or substantial buffers to views. This is not least because planting would initially take time to properly establish and is ever evolving and reliant on regular maintenance to retain a consistent form. The height of the proposed dwelling is also a relevant factor in gauging the likely effectiveness of any new planting as a visual buffer.
 11. The proposed garage, to be single storey, of functional design, and sited adjacent to the existing stable, would have a somewhat discreet presence on the site. Nevertheless, the proposal taken as a whole would, for reasons that are set out above, cause harm to the character and appearance of the area. The scheme conflicts with Policies DM4 and DM10 of the SADMPDPD in so far as these policies indicate that the intrinsic value and beauty of the countryside shall be protected, and that development should complement or enhance the character of the surrounding area.

Accessibility of facilities and services

12. Newbold Heath is physically separated from Newbold Verdon, which is categorised as a Key Rural Centre via the SADMPDPD and is the closest settlement to contain a range of facilities and services potentially capable of serving the day-to-day needs of future occupiers of the development. However, the distance from the site to Newbold Verdon is not especially short and the most direct route is via the PRoW, which is neither hard surfaced nor lit. Thus, when also factoring in the difficulties that could be encountered when crossing the busy B582, walking to Newbold Verdon would be unlikely to represent a particularly attractive option for future occupiers of the development.
13. Whilst the cyclability of other Key Rural Centres, namely Barlestone and Desford, has been mooted by the appellant, it cannot necessarily be presumed that future occupiers would have both the desire and ability to cycle to neighbouring settlements. This is particularly the case in the apparent absence of specific facilities for cyclists local to the site, such as defined lanes for their use, and the not insignificant distances involved. I also note that the location of the closest available bus stops is not particularly convenient relative to the site.
14. The National Planning Policy Framework (July 2021) (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision-making. Nevertheless, when factoring in the particular site circumstances under consideration, the proposal would inevitably increase travel by private modes of transportation, which sits uncomfortably alongside the Government's objectives of delivering sustainable development in a planned and coordinated manner. Thus, the scheme conflicts with the Framework and would cause material harm by virtue of the site not representing an appropriate location for housing having particular regard to the accessibility of surrounding facilities and services.
15. Whilst Policy DM17 of the SADMPDPD is not referenced in the Council's second reason for refusing planning permission, I find conflict with this policy in so far as it requires that development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
16. For the avoidance of doubt, in the specific context of this main issue, I do not identify conflict with Policy DM10 of the SADMPDPD. Moreover, whilst future occupiers would be likely to utilise private travel modes in the absence of any genuinely realistic alternative option, this would not, to my mind, lead to any obvious adverse effect upon their amenity or standard of living.

Planning Balance

17. As indicated at paragraph 11 of the Framework, the presumption in favour of sustainable development is engaged in circumstances that include where the policies most important for determining a scheme are deemed out-of-date. This includes, with respect to proposals for housing, where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
18. The Council has accepted that it cannot currently demonstrate a five-year supply of deliverable sites. Indeed, a 4.89-year supply figure is referenced

within its Delegated Report. As such, the presumption in favour of sustainable development is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.

19. I have identified conflicts with Policies DM4 and DM10 of the SADMPDPD. Notwithstanding the Council's current housing supply shortfall, I am satisfied that Policy DM4 remains consistent with the Framework in the sense that it seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside and does not impose protection of the countryside in its totality. Further, Policy DM10 is consistent with the Framework in so far as it promotes development that is sympathetic to local character. In this context, whilst the site's location outside of any defined settlement boundary is not in itself determinative to the outcome of the appeal, I apportion considerable weight to the harm I have identified would be caused by the proposal to the character and appearance of the area.
20. I have also identified conflict with Policy DM17 of the SADMPDPD, which is consistent with the Framework in so far as it sets out that opportunities to promote walking, cycling and public transport use shall be pursued. When noting that merely a single unit of accommodation is proposed and in acknowledgment of the site's proximity to Newbold Verdon (notwithstanding the connectivity constraints that apply), I apportion moderate weight to the harm I have identified would be caused by virtue of the site not representing an appropriate location for new housing having particular regard to the accessibility of facilities and services.
21. Turning to the scheme's benefits, it would deliver an additional residential unit in a Borough where there is currently an identifiable housing land supply shortfall. Thus, whilst merely a single additional unit is proposed, the benefits associated with delivering one family-sized windfall unit on land that is, in-part, previously developed attract moderate and meaningful weight.
22. The development would also create jobs during the construction phase and would, most particularly once occupied, provide support to the local economy and local community facilities. These benefits attract limited weight due to the scale of development under consideration.
23. Having considered the benefits and adverse impacts of the scheme that is before me, I conclude that the harms I have identified would, taken collectively, significantly and demonstrably outweigh the proposal's relatively modest benefits when assessed against the Framework's policies taken as a whole. The presumption in favour of sustainable development, as set out in the Framework and at Policy DM1 of the SADMPDPD, does not apply therefore. The scheme conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

24. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR