

**Email Communique'**

Date: 22<sup>nd</sup> October 2024

FAO: Mr. T. Hartley - Planning and Development Manager.

Ref: Planning Application No: 23/00824OUT

Dear Tim,

At the request of both the Applicant and Mr. S. Clarke, I write in respect of the current aforementioned outline planning application for the proposed residential development for a combination of Self-Build (3) and Market (4) Dwellinghouses on land adjacent to No: 9 Barwell Lane, Kirby Mallory, Leicestershire.

The **sustainable settlement** of Kirby Mallory provides a range of day-to-day services and facilities including a school, a place of worship, a recreation play area, a community centre, a restaurant and a convenience shop in addition to a number of local business employers and a major tourist attraction that are **all** available within a walking distance from the subject application site via contiguous (illuminated) footways.

The subject application site is positioned between a walking range of circa: 100.00M-600.00M (0.062mile-0.37mile) from the existing services and facilities via linked footways.

- **110m - convenience shop**
- **120m - recreational play area**
- **160m - restaurant**
- **210m - school**
- **460m - church**
- **550m - employment**
- **620m - major tourist attraction**

The CIHT Planning for Walking notes that circa: ***"80% of journeys that are shorter than 1 mile are wholly on foot"*** and it is considered that the application site meets the '5C's' having walking routes **connected** to key attractors (shops, transport stops, schools etc.), **convivial** interactive routes, clear and legible **conspicuous** routes, **comfortable** routes with quality pavements and **convenient** direct routes for those traveling via foot and *ipso facto*, there is clear potential for short motor vehicle trips to be substituted by other modes of sustainable transport including walking, cycling and public transport.

It is acknowledged that whilst a degree of tension and conflict exists with permissive SADPM Policy DM4 and the Council's policy on Self-Build and Custom Housebuilding (which is silent and lacking in provision within the Local Plan) and the development proposal, the Council is failing in its statutory duty to ensure sufficient provision to meet local demand for housing supply.

### ***Market Housing***

The Council's 5 Year Housing Land Supply Statement (01.04.23 - 31.03.28) suggests - utilising the current Standard Method - a **5.6 YHLS** based upon a local housing need of **433pda**.

However, it is considered that the true position in taking into account the LCC's apportioned figure of +187 dpa (Duty to Cooperate/Statement of Common Ground etc.) results in an annual requirement quantum of **620dpa** resulting in a shortfall of housing with a resultant **3.89 YHLS** figure.

In addition, it is noted that this said quantum figure may further be eroded to a **3.5YHLS** with the proposed NPPF revisions resulting in the Council's requirement to deliver a minimum of **689dpa**.

### ***Self-Building Housing***

Given the Council's acknowledgement of the scale of the said shortfall - 7 SB Dwellinghouses required at the closing of current base period (30.10.24) and 19 SB Dwellinghouses required in the approaching new base period (31.10.24) - it is considered that **substantive weighting** should be applied in the overall planning assessment with the **tilted balance** engaged.

Section 2A (2) of the Self-build and Custom Housebuilding Act 2015 states:

*"an authority to which this Section applies **must give 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"*

Paragraph 70 of the NPPF 7 advises:

*“to promote the development of a good mix of sites local planning authorities should:*

*b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom build housing”*

Meritorious Planning Appeal Exemplars:

Appeal Ref.No:APP/H/1840/W/19/3241879 \*<sup>1</sup>

The appeal site is a rural site located outside the defined limits to development whereby the Inspector noted that the development site was not able to be defined as being described as ‘*adjacent*’ to the settlement given the intervening small fields and other low density properties, concluding that any harm would be very limited and able to mitigated via careful design and landscaping.

In finding the Council’s inability to demonstrate sufficient planning permissions - notwithstanding that the application site lay outside the defined development boundary and within an area identified as open countryside - with limited harm to the character and appearance of the area and the location assessed as being sustainable, ***substantial weight*** was applied to the provision of additional Self-Builds and the ***tilted balance*** engaged and the appeal allowed.

Appeal Ref: APP/H1840/W/19/32/44074\*<sup>2</sup>

The appeal site is a rural site located outside defined limits of settlement which the Inspector concluded was not sustainably located for reasonable access to facilities and services without reliance upon private vehicles.

However, whilst in the overall planning balance the Inspector noted some limited harm with regards to the proposed site location, the provision of a Self-Build Dwelling positively addressed the Council’s shortfall for self-build housing and in balancing the total benefits against the harm with regards to the location of the development proposal, the said harm was ***significantly and demonstrably*** outweighed by the benefits and the appeal was allowed .

\*1 & 2 Appendices

Appeal Ref: APP/D3125/W/21/3274197<sup>\*3</sup>

The Inspector found conflict with the Local Plan Policies and the LP's strategy of directing development to settlements with greater facilities and services and although the contribution to the SBCH would be small, the extent of the short fall, the statutory SBCH duty and the economic and social benefits cumulatively amounted to **substantive weight** in the balance and the appeal was allowed.

In respect of both the Market and Self-Build elements of subject planning application, the site is **not** considered to be in an **isolated location** given it's close proximity to other dwellings (No:9 Barwell Lane positioned immediately adjacent to the application site's northern boundary) and the established built development fabric of the lower southern reaches of the settlement.

The exemplar planning appeals seek to assist with the emphasis on the importance of **substantial weight** being applied in the overall planning balance with the engagement of the **tilted balance** due to the failure by the Council in the required mandatory compliance with the statutory duty for both Market and SBCH in the provision of sufficient housing to meet demand which, when viewed in context with a **3.89 YHLS** and the absence of Local Plan Policies for Self-Build and Custom Housebuilding, is considered a **significant material consideration** in the determination of the current subject planning application.

The aforementioned planning appeal decisions are considered most relevant in respect of maintaining consistency to ensure continued confidence in the operational arena of the planning and development control system.

Your comments on '**tilted balance**' are welcomed in the overall broad context of the planning assessment for both the Market and Self-Build planning application.

Martin.

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