



## Appeal Decision

Site visit made on 30 September 2020

by **David Carter BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21<sup>st</sup> December 2020

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**Appeal Ref: APP/K2420/W/20/3256425**

**Land adjacent to 1 Back Lane, Market Bosworth, Nuneaton, Leics CV13 0LD**

- 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 Mrs Judith Sturley against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 19/01035/FUL, dated 15 September 2019, was refused by notice dated 5 February 2020.
  - The development proposed is erection of 1 No dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The site address and date of the planning application set out above have been taken from the appeal form as this information is unclear on the planning application form.

### Main Issues

3. The main issues are:

- (i) the effects of the appeal proposal on the character and appearance of the area having regard to whether or not it is a suitable location for the proposed development and,
- (ii) the implications of the proposal for the Market Bosworth Conservation Area.

### Reasons

#### *Character and appearance*

4. The appeal site is located on the urban edge of Market Bosworth. The site is separated from the adjoining field by a fence and a public footpath weaves its way through the appeal site. The site slopes down from its frontage with Back Lane to the floor of a shallow valley. The site also lies at the edge of the Market Bosworth Conservation Area.
5. The development plan for Market Bosworth comprises the Hinckley and Bosworth District Core Strategy (2009) (CS), the Site Allocations and Development Management Policies DPD (2016) (SADMP) as well as the Market Bosworth Neighbourhood Plan 2014 to 2026 which was made in 2015. Market Bosworth is identified as a Key Rural Centre in the settlement hierarchy in the

- CS which, in turn is reflected in the SADMP and NP. As such, it occupies a position in the top tier within the District's rural areas.
6. The settlement boundary excludes the appeal site which is, thereby, regarded as forming part of the countryside. There are strict controls over development outside settlement boundaries within the SADMP. Policy DM4 protects the countryside and the appeal proposal falls outside the categories of sustainable development that may be permitted under this policy. The NP contains more detailed policies adding to the protection of the appeal site by identifying it as falling within an area of Local Green Space. This protects a finger of countryside which extends close to the centre of Market Bosworth. This green finger provides important views into the urban area and a vista looking out into the countryside.
  7. The appellant suggests that the appeal proposal represents a sustainable development. The appeal proposal is a revision of an earlier scheme for a single dwelling that was refused (15/00716/FUL). Some important revisions to the earlier proposal have been incorporated into the design which help reduce its likely impact. These include setting the new dwelling further back from the frontage and building at a lower height. The design of the dwelling would be both modern and imaginative, to a high standard of design.
  8. I am satisfied in respect of views into the urban area, that the effects of the appeal proposal would not be substantial with the design of the building providing an attractive variation from a typical side elevation that characterises No 1. The setting back of the building from Back Lane would also be beneficial. However, in looking outwards from the urban area the effects would be harmful. This is demonstrated by the visualisation of the view into the countryside in the appellants evidence. This shows that a significant portion of the view to the north-west from Back Lane into the countryside would be shielded by the front elevation of the new dwelling. I would estimate this at between a quarter and one-third. I find this to be significant and, not at a very limited level as claimed by the appellant.
  9. In relation to the impact on the area identified as Local Green Space, although the area of land that would be lost to the development would be small in relation to the total area designated, this land is at the point closest to the centre of Market Bosworth. My understanding is that protection of this green finger is highly treasured by the local community, reflecting its designation in the NP and, the vista would be compromised by the proposed development.
  10. On this main issue I find that the appeal proposal would have a harmful effect on the character and appearance of the area arising from the development of the proposed dwelling beyond the designated settlement boundary on land designated as an important Local Green Space. As such, the proposal conflicts with CS Policy 11, SADMP Policies DM1, DM4, DM10 and NP Policies CE1, CE2 and CE3. Policy DM1 reflects the presumption in favour of sustainable development. Policy 11 establishes the settlement hierarchy subsequently set out in more detail in Policy DM4. Policies DM10 and CE1 highlight the importance of high-quality design and the need to respect the local context and character. Policies CE2 and CE3 protect Local Green Spaces and views and vistas respectively. I also find these policies to be consistent with the approach in the Government's National Planning Policy Framework (the Framework).

### *Heritage implications*

11. Market Bosworth Conservation Area is a designated heritage asset under the Planning (Listed Buildings and Conservation Areas) Act 1990. Section.72(1) requires that, in the exercise of planning powers in conservation areas, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area". Para 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
12. The development of Market Bosworth was influenced by its ridge top location, agricultural economy and the strong manorial tradition based on Bosworth Hall within its parkland setting. This has preserved the character of Market Bosworth from the C17 onwards. All routes into Market Bosworth converge on the Market Place which is at the centre of the extensive Conservation Area. The Conservation Area Appraisal (2014) identifies that Back Lane provides extensive views across open farmland and copses. Back Lane itself is noted for its urban street scene characterised by a mix of styles and ages from the early C19. The adopted Conservation Plan identifies the vista from Back Lane into the countryside and this is clearly marked so that it includes the appeal site.
13. I have already referred to the harmful impact of the appeal scheme on the vista above but, the fact that the views from Back Lane emanate from inside the conservation area means that they must inevitably affect its setting. Thereby, the appeal proposal would lead to less than substantial harm to the significance of Market Bosworth Conservation Area, a designated heritage asset.
14. The public benefits of the appeal proposal would include the addition of a new dwelling and the economic benefits arising from its construction and spending/support by future occupants for local services and facilities. However, it appears to me that most of the benefits arising from the proposal would be private and would not be sufficient to outweigh the less than substantial harm.
15. I conclude the appeal proposal would fail to preserve the setting of the Market Bosworth Conservation Area and would cause less than substantial harm to its significance as a designated asset. In the absence of public benefits to outweigh the harm to the Market Bosworth Conservation Area, it would be in conflict with SADMP Policies DM11 and DM12, These policies seek to protect and enhance the historic environment and heritage assets ensuring that development proposals outside conservation areas do not detrimentally impact upon the setting or key views into or out of the conservation area. These policies reflect the importance attached to conservation in paragraph 193 of the Framework.

## **Other Matters**

### *Housing land supply*

16. The appellant's statement of case argues that the Council is unable to demonstrate a 5 year housing land supply (5YHLS) and, therefore, that paragraph 11d) of the Framework should be engaged. At the time the planning application was determined, the Council accepted that it was not able to identify a 5YHLS.

17. However, the Council recently published its latest Residential Land Availability Monitoring Statement for 1 April 2019 - 31 March 2020. This report includes a significant increase in supply compared to the previous version and, using the Government's standard method, a 5.15 years supply can be identified. This report confirms that small windfall sites would contribute to meeting that supply (146 dwellings out of a total supply of 2,445 dwellings). However, it is reasonable to anticipate that the windfall capacity would come forward in sustainable locations consistent with the policies set out in the development plan.
18. While the position regarding the 5YHLS might change in future, the position at the point of determination of this appeal is that, using the Government's standard method, a 5 year supply has been demonstrated by the Council and, as a result, paragraph 11d) of the Framework is not engaged in respect of the supply of housing land.
19. The appellant also suggested a further point on housing supply with regard to the Housing Delivery Test: 2019. However, it is clear from the Council's response that this suggestion has misinterpreted these data and therefore this does not affect my finding in the preceding paragraph.

#### *Self-build housing*

20. The appellant has set out that the proposed dwelling would be a self-build dwelling although this is not specified in the description of the development. The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) requires all local planning authorities to grant sufficient planning permissions to meet the demand for custom and self-build housing in their area.
21. The appellant has been on the Council's self-build register since June 2016 and points out, by reference to the Authority Monitoring Report, that very few dwellings have been granted planning permission for this type of development. As at 31 March 2019 there were 49 registrations on the Council's register requiring 49 plots for detached dwellings. At the time of the report planning permissions for self-build and custom build were not monitored although, there is a commitment to carry this out in future editions.
22. From the evidence, it would appear that the Council is continuing to work towards its obligations regarding self-build and custom build but, at present there would appear to be a shortfall in the supply of suitable opportunities for those on the register. The provision of an additional self-build property would, therefore, be a significant positive benefit of the appeal scheme to be weighed in the balance.

#### *Other benefits*

23. The appellant argues that the appeal proposal would wholly satisfy the economic, social and environmental dimensions of sustainable development. Provision of a new dwelling would support the economy through construction and subsequently through support for local services. Social benefits include the addition of a high-quality dwelling to the stock. In environmental terms, the dwelling would be a low carbon development sustainably located very close to the centre of Market Bosworth.

### **Planning Balance**

24. Notwithstanding the current position on the 5YHLS, the Council continue to recognise that the housing policies in the development plan are out of date and, therefore, paragraph 11d) of the Framework is engaged. The benefits of the appeal proposal would include the provision of a single self-build dwelling and other economic, social and environmental benefits.
25. However, the development plan policies referenced under the main issues above remain up to date against the approach in the Framework. Accordingly, I find that the proposed development would be contrary to the LP as a whole and the benefits of the proposal arising from the construction of a single dwelling would be limited and, would be significantly and demonstrably outweighed by the totality of harm identified above.

### **Conclusion**

26. For the reasons given above and, taking account of all the matters raised, I conclude the appeal should be dismissed.

*David Carter*

INSPECTOR