



## Appeal Decision

Site visit made on 22 November 2022

by **M Russell BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 14 February 2023**

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**Appeal Ref: APP/F2415/W/22/3300733**

**The Causeway, Church Causeway, Church Langton LE16 7SU**

- 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 J S Minhas against the decision of Harborough District Council.
  - The application Ref 21/01094/FUL, dated 9 June 2021, was refused by notice dated 9 December 2021.
  - The development proposed was originally described as 'Erection of 9 x residential dwellings'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have assessed the appeal on the basis of the amended scheme for the 'Erection of 8 dwellings' which was before the Council when it made its decision.
3. Since the Council's decision, the East Langton Parish Neighbourhood Plan Review Referendum Version (NPR) has passed its referendum and it was subsequently 'made' in November 2022. The NPR supersedes the policies of the East Langton Neighbourhood Plan which are referred to on the Council's decision. The appellant has been provided with an opportunity to comment on the NPR and I have taken the comments received into account as part of my assessment. As the NPR now forms part of the development plan for the area, its policies carry full weight in my assessment of the appeal.

### Main Issues

4. The main issues are:
  - i) whether the appeal site is a suitable location for the proposal having regard to the development plan and national policy;
  - ii) the effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the setting of the Church Langton Conservation Area (CA); and
  - iii) whether the proposal would provide suitable living conditions for future occupiers of the proposal with particular regard to privacy.

## Reasons

### *Location*

5. 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'. The sixth tier of the settlement hierarchy refers to 'Other villages, rural settlements and the countryside where development will be strictly controlled'.
6. Policy H1 (Provision of new housing) of the LP confirms that land for a minimum of 3,975 new homes will be provided during the plan period. The majority of this is to be located at Scraftoft, Market Harborough and Lutterworth. However, Policy H1 also identifies amongst other things that some housing will be provided at 'Selected Rural Villages' including a minimum of 30 dwellings at Church and East Langton.
7. The Council has confirmed that it can demonstrate a five-year housing land supply and this has not been disputed by the appellant. Furthermore, the NPR confirms that since the above housing target was established, a total of 20 dwellings have been approved at Church and East Langton and allocates two sites at East Langton for a total of up to 10 dwellings. There is nothing before me to suggest that the previously approved developments and sites allocated in the NPR could not be delivered within the plan period. In that regard, provisions are in place to address the minimum housing requirements at Church and East Langton.
8. Policies H2 (Settlement Boundaries) and ENV6 (Area of Separation) of the NPR confirm that land outside the settlement boundary will be treated as open countryside where development will be carefully controlled and that development proposals which would reduce the separation of Church Langton and East Langton will not be supported. There is nothing in the National Planning Policy Framework (the Framework) that indicates that the use of settlement boundaries to direct development and an area of separation to retain the distinct identity of neighbouring villages are no longer suitable policy responses to achieving sustainable development.
9. The site sits outside the defined settlement boundary for Church Langton and is therefore in the countryside for the purposes of decision making. Market housing such as that proposed does not fall under the types of development included as being appropriate for the countryside under Policy H2 of the NPR. I have also found under the second main issue that the proposal would visibly reduce the 'Area of Separation'. Furthermore, Policy H3 (Windfall sites) of the NPR only supports small scale development proposals for infill housing within the defined settlement boundaries. Accordingly, there is clear conflict with the policies of the very recently 'made' NPR.
10. There is some tension between the requirements of the NPR and Policy GD2 (Settlement development) of the LP 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. However, the appeal site forms part of a wider grassed area to the sides and rear of the dwelling at The Causeway. It

also sits adjacent to fields which provide a buffer between the boundary of the site and the built-up area of Church Langton to the west of Church Causeway. In these respects, the site does not adjoin the built up area of the village. This is further demonstrated by the position of the site set away from the settlement boundary defined in the NPR. Therefore, the site does not in any event fall within the scope of Policy GD2.

11. Policy GD4 of the LP also sets out instances where 'New housing in the countryside' will be permitted. However, the proposal would not accord with criteria 1 (a) of this policy as the proposal is for more than 4 dwellings, for the reasons already set out is not visually and physically connected to the settlement and it has not been demonstrated that it would address an evidenced rural housing need beyond that already catered for in the development plan. The proposal is also not of a type specified under the remaining criteria under Policy GD4.
12. I conclude the countryside is not a suitable location for the development 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.

#### *Character and appearance*

12. Beyond the hard boundary treatments serving the dwelling at 'Leadclune', the character to the western side of Church Causeway becomes evidently more rural with the roadside mainly lined by trees and hedgerows and occasional glimpses through to the fields beyond. The appeal site sits on this sparsely developed side of the road 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'. This dwelling occupies a standalone position close to the road. The site has open boundaries to 'The Causeway' whereas the boundaries with the neighbouring Public Right of Way A81 (PROW) to the north of the site and the roadside on Church Causeway include mature trees and hedgerows.
13. The appeal site sits outside but next to the boundary of the CA. The significance of the CA primarily derives from the high quality of its built form which includes several listed buildings, the prevailing building materials which include red brick facades, slate roofs and white casement windows and the verdant character of its spaces which provide a semi-rural setting. Together with neighbouring fields, the open and soft landscaped attributes of the appeal site form part of an overriding pastoral character to the edge of the CA which positively contributes to this setting and adds to its significance.
14. The development's access point would open up a section of the front boundary and the cul-de-sac arrangement would extend deep into the site, significantly beyond the built footprint of the neighbouring dwelling at 'The Causeway'. Together with the design of the scheme which includes a mix of single storey and two-storey house types, plain clay tiled roofs, anthracite grey uPVC window frames and detached garage buildings, the development would have a suburban appearance. This would appear incongruous alongside the sparsely developed surroundings to this side of Church Causeway and would erode the spacious appearance of the land around 'The Causeway', thereby visually reducing the 'Area of Separation' identified in the NPR.

15. The incongruity of the proposal would be evident to passers-by the proposed access point and in views from the road through the frontage of The Causeway where its access drive and boundary treatments facilitate views of the site. Even accounting for the position of the buildings set away from the site's northern boundary, the development would also be discernible for users of the adjacent PROW in glimpses through the boundary vegetation and through the proposed pedestrian link to the PROW. Moreover, where the PROW sits close to the proposed boundary with plot 7, the urbanising impact of the development would be particularly stark given the relative proximity of the buildings and the more open views of the site provided from the PROW at this point.
16. In addition, the evidence before me indicates that there are several trees along the boundary with the PROW that are likely to be affected by Ash dieback. This has the potential to open up gaps in the boundary vegetation next to the PROW. Any replacement planting would take a significant period to establish. This adds to my concerns that the proposal would fail to effectively assimilate into the rural surroundings.
17. Taking all the above factors into account, the proposal would detract from the prevailing rural character to this side of Church Causeway and would also erode the pastoral fringe of the CA which would detract from its setting.
18. Having regard to the requirements of the National Planning Policy Framework (the Framework), I concur with the main parties that the proposals would result in less than substantial harm to the character and appearance of the CA. Paragraph 202 of the Framework states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
19. Eight dwellings of a mix of house types would make a modest contribution to the district's housing offer. This is particularly so given the Council's favourable housing land supply position and the provisions within the NPR to meet the minimum housing targets for the village. The appellant suggests that three of the proposed dwellings would be affordable units. However, the appropriate mechanism for securing the precise terms of affordable housing would be through a planning obligation. Since no such obligation is before me, this substantively diminishes any positive weight that I am able to afford to this as a potential public benefit.
20. Biodiversity net gains resulting from the proposed 'biodiversity offset area' are unlikely to be of a significant magnitude such that they would result in more than a limited public benefit.
21. Given the above, I find that there are no public benefits in this instance that outweigh the less than substantial harm that would be caused to the significance of the CA.
22. I conclude the development would result in significant harm to the character and appearance of the area and would not preserve the setting of the CA. In this regard, the development would conflict with the design, character and conservation requirements of policies GD4 (New housing in the countryside), GD8 (Good design in development) and HC1 (Built heritage) of the LP and ENV6 (Area of Separation), DBE1 (Protection of the Built Environment: Conservation Areas and Listed Buildings) and DBE3 (Design) of the NPR. The

proposal would also conflict with the requirements of the Framework for development to protect the intrinsic character and beauty of the countryside and to conserve or enhance the historic environment.

23. The Council's second reason for refusal on its decision notice which relates to this main issue also refers to Policy GD2 (Settlement Development) of the LP. Given I have already found the location of the site does not fall to be considered under this policy, I have not assessed the proposal against its subsequent criteria. Even so, this does not diminish the identified harm with the other identified policies of the development plan.

*Living conditions for future occupiers of the proposal*

24. The intervening distance between the nearest balcony to the side of 'The Causeway' to the rear elevations and more intimate areas of the rear gardens serving plots 1 -3 would mitigate any overlooking impacts to an extent. However, it is likely that anyone standing on the balcony area would be very obvious to occupiers of these dwellings and there would therefore be some perceived impacts on privacy.
25. Moreover, there is nothing before me to suggest the roof space above the garage at 'The Causeway', which extends up to the boundary with the appeal site, could not be used as habitable accommodation. The nearest dormer window to the boundary and the clear glazed 'hayloft' door in the side elevation of the garage would provide very close, elevated views of the rear gardens and rear elevation windows serving the dwellings on plots 1 - 3. In the case of the 'hayloft' door, this would also offer views into the rear garden of Plot 4.
26. Had I been minded to allow the appeal, it is possible that conditions could have been attached requiring a higher balustrade screen to be provided to the edge of the balcony area and for the nearest dormer window and 'hayloft' door to altered to be obscure glazed and fixed shut. Indeed, the appellant has indicated they would be willing to comply with similar requirements. However, given that I am dismissing the appeal for other reasons, I have not established whether the appellant would be agreeable to the precise terms of any such conditions.
27. I conclude, there is the potential that future occupiers of the development would not be provided with suitable living conditions with particular regard to privacy. However, it is likely that the harm identified could be addressed through conditions to ensure that there would be no conflict with the requirements to for developments to minimise impact on the amenity of existing and future residents including in respect of privacy in Policy GD8 (Good design in development) of the LP.
28. The Council's reason for refusal relating to this main issue also refers to Policy DBE3 of the NP. This policy and its replacement, Policy DBE3 if the NPR, do not refer to matters relating to living conditions. Therefore, those policies have not been material to my findings in respect of this main issue.

**Other Matters**

29. Even though the site is a short walking distance to Church Langton, good accessibility to the local amenities and public transport links within this village does not on its own justify locating dwellings outside the settlement boundary and in the countryside when this conflicts with the clear strategic objectives of

the development plan. Furthermore, it is for the plan-making process to assess the relative suitability of sites put forward for allocation. Therefore, I have assessed the proposal on its own merits against the up-to-date policies of the development plan.

30. My attention has been drawn to a residential development granted planning permission<sup>1</sup> on the opposite side of Church Causeway which was underway at the time of my site visit. The NPR incorporates the dwellings within that development into the settlement boundary for Church Langton. While I accept that the access drive to that development is within the 'Area of Separation', I do not find this comparable to the appeal proposal which sits outside and not adjoining the settlement boundary and would also include dwellings within the 'Area of Separation'.

### **Conclusion**

31. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
32. Eight dwellings of varying sizes would make a modest but positive contribution to the area's housing numbers and mix. There would also be some limited social and economic benefits resulting from jobs associated with the construction of the proposal and the use of services and facilities in the area by future occupiers of the proposal. It is also likely that conditions would ensure that suitable living conditions could be provided for occupiers of the development.
33. However, the above matters need to be considered in the context that the Council can demonstrate a 5-year housing land supply. Therefore, even accepting that the housing target for Church and East Langton is a minimum figure, there does not appear to be an urgent need to release land outside the settlement boundary to meet the district's housing requirements. The development of eight dwellings in the countryside would conflict with the clear spatial objectives of the development plan. Paragraph 12 of the Framework confirms that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.
34. Furthermore, the proposal would also result in significant harm to the character and appearance of the area and would not preserve the setting of the CA.
35. The other material considerations that have been advanced are not of a sufficient weight to justify a decision other than in accordance with the development plan which, in terms of my conclusions under the main issues, the appeal scheme would clearly conflict. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

*M Russell*

INSPECTOR

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<sup>1</sup> LPA Refs 18/00904/OUT and 19/00876/REM