



# Appeal Decision

Site visit made on 15 December 2022

**by Bhupinder Thandi BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 January 2023**

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**Appeal Ref: APP/Y2430/W/22/3300525**

**Land adjacent Brooksby Road, Hoby LE14 3EA**

- 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 Alison Warner against the decision of Melton Borough Council.
  - The application Ref 21/00899/FUL, dated 22 July 2021, was refused by notice dated 27 May 2022.
  - The development proposed is two self-build dwellings and relocation of children's play-area.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Alison Warner against Melton Borough Council. This application is the subject of a separate decision.

## Procedural Matters

3. I have shortened the appellant's description of development to make it more succinct.

## Main Issues

4. The main issues are:
  - Whether the appeal site is an appropriate location for new housing having regard to the local housing strategy;
  - The effect of the proposed development upon the character and appearance of the area; and
  - The impacts upon climate change

## Reasons

### *Appropriate location for new housing*

5. Part 1 of Policy 14 of the Hoby with Rotherby Neighbourhood Development Plan (2020) (NDP) advises that new residential development will be supported within or on the edge of settlement boundaries subject to a number of design criteria.
6. The appeal site neighbours existing residential development, but it is located beyond the settlement boundary of Hoby. Whilst beyond the built form and despite the presence of the access road it is apparent to me, that the site has a

visual and physical relationship with the village and in my view is located on its edge.

7. As such, the appeal site would be an appropriate location for new housing in accordance with NDP Policy 14.

#### *Character and appearance*

8. The appeal site is formed of two parcels of land bisected by a public footpath. The northern parcel is used as a children's play area and the southern parcel is a field used for the grazing of livestock.
9. When approaching Hoby along Brooksby Road open countryside is the prevailing characteristic of the area. Despite existing development on the eastern side of the road the combination of mature landscaping and green open spaces including the appeal site contribute to the rural character of the surrounding area.
10. The existing residential development along the eastern side of the road is less prominent on account of the set back from the road and intervening landscaping. The proposed development, by contrast, on account of its scale and position close to the road would be unduly prominent and would not frame the village in an appropriate manner.
11. I acknowledge that the scale and design of the development would be reflective of buildings in the village. However, its position close to the road and extensive hard surfacing results in an unduly urban and intrusive form of development eroding an open space that positively contributes to the setting and character of the village. As such, it would not successfully integrate into the area and would undermine its spacious and verdant character and appearance.
12. The appellant has referred to a previous appeal decision<sup>1</sup> for new residential development on the appeal site. I understand that the proposal was for four affordable dwellings and the main issues in dispute related to whether the site was a rural exceptions site and the provision of replacement play equipment. These are material differences between the two applications which is to be weighed in the planning balance. Whilst I have paid regard to the previous Inspector's conclusions, I am not bound by their decision. Every appeal must be considered on its own merits, as I have done.
13. As such, I conclude that the proposed development would adversely affect the character and appearance of the area contrary to Policy D1 of the Melton Borough Local Plan (2018) (LP) and NDP Policy 1 which, amongst other things, require developments to deliver good quality design; reflect the wider context of the local area and respect local vernacular and the siting and layout must be sympathetic to the character of the area.
14. I note the Council have referred to Policies EN8 and EN9 in the reason for refusal, however, I find that with specific regard to this main issue I have given it negligible weight in coming to my decision.

#### *Impacts upon climate change*

15. The appellant intends to incorporate low carbon materials and renewable energy technologies and has drawn my attention to updated Building

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<sup>1</sup> Appeal Ref: APP/Y2430/W/20/3261535

Regulations legislation. Whilst planning seeks to avoid duplication of other regulatory regimes achieving sustainable development and adapting to climate change are important themes of national guidance. Furthermore, LP Policies EN8 and EN9 require developments to consider climate change and sustainable design and construction.

16. As such, there will be a balance to be struck between planning and matters controlled by other regimes. Based on the evidence before me I am not satisfied that the appellant has adequately demonstrated that the proposed development would adapt to and mitigate the impacts of climate change in the context of the requirements of the development plan.
17. Consequently, I conclude that the proposed development would be contrary to LP Policies D1, EN8 and EN9, NDP Policies 1 and 14 and the Design of Development Supplementary Planning Document (2021) which, amongst other things, require development proposals to demonstrate how the need to mitigate and adapt to climate change has been considered; incorporate exemplar proposals for low carbon materials and renewable energy technology and incorporate sustainable low carbon design and construction techniques to meet high standards for energy and water efficiency. It would also be contrary to the aims and objectives of the National Planning Policy Framework which seeks to achieve sustainable development including mitigating and adapting to climate change and moving to a low carbon economy.

### **Other Matters**

18. I acknowledge that the development would deliver two self-build properties in the area, occupied by the appellant's children, and that none of the relevant policies prevent opportunities for such development from taking place. However, in this particular regard I find that the benefits of two self-build properties would not outweigh the harm that I have identified.
19. The proposal would result in the loss of the existing play area and its replacement on the neighbouring field. The proposed play area would be similar in size to the existing one and would be a marginal further distance from the settlement edge. The necessary planning obligation has not been provided and thus there is no mechanism by which to secure the contribution. However, given my findings in respect of the main issues, it is not necessary for me to consider this matter further.
20. The Council raise no objection on highway grounds or in respect of biodiversity and I have no reason to come to a different conclusion. However, the absence of harm in the relation to these matters weigh neither for nor against the proposal.

### **Conclusion**

21. For the reasons set out above the appeal does not succeed.

*B Thandi*

INSPECTOR