



Appeal Decision

Hearing Held on 7 December 2021

Site Visits made on 6 and 7 December 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 January 2022

Appeal Ref: APP/Y2430/W/20/3264051

Land to the north of Kirby Lane, Melton

Easting: 474099, Northing: 317473

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission of matters reserved under an outline planning permission.
 - The appeal is made by Barratt David Wilson Homes against the decision of Melton Borough Council.
 - The application Ref 19/00245/REM, dated 1 February 2019, was refused by notice dated 16 October 2020.
 - The development proposed is a Reserved Matters application for 233 dwellings (Phase 1), with respect to applications with references 17/00717/VAC and 15/00910/OUT, and in connection with matters of Appearance, Landscaping, Layout, and Scale including public open space, drainage and associated infrastructure.
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Decision

1. The appeal is allowed, and planning permission is granted for the Reserved Matters of 233 dwellings (Phase 1), with respect to applications with references 17/00717/VAC and 15/00910/OUT, for Appearance, Landscaping, Layout, and Scale including public open space, drainage and associated infrastructure at Land to the north of Kirby Lane, Melton LE13 0BY in accordance with the terms of the application, Ref 19/00245/REM, dated 1 February 2019, and the plans submitted with it, subject to the attached schedule of conditions.

Applications for costs

2. An application for costs was made prior to the hearing by Barratt David Wilson Homes against Melton Mowbray Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was amended several times following its initial submission to the Council. As a result, the number of proposed dwellings was reduced from 249 to 233 units¹. I have revised the description of development accordingly and am satisfied that no party would be prejudiced by my consideration of the revised scheme.
4. The appeal site is part of a larger parcel of land that was subject to outline planning permission² for up to 520 dwellings. This was later subject to a section

¹ layout plan Ref KLMM/P100 Rev AB1

² Planning Application Reference: 15/00910/OUT

73 approval³ which allowed the scheme to be brought forward in phases. Phase Two has since gained reserved matters approval for 266 dwellings. Condition 6 of the 2017 outline approval requires all Reserved Matters proposals to accord with the principles and parameters of the Design and Access Statement⁴ (outline DAS). The DAS therefore established key design principles and is an important material consideration in the determination of this appeal.

5. Also, Reserved Matters⁵ has recently been given for the erection of 199 dwellings on the appeal site (The Approved Scheme). The Appellant explained at the hearing that the key difference between this and the proposal was the inclusion of a larger area of Public Open Space (POS) within the centre of the scheme. Main parties agreed that apart from the POS the layouts were largely similar with respect to street pattern, density, parking arrangement and scale. There is no indication that the Appellant would not implement this approved scheme if the appeal were to fail. As such, the approved scheme presents a clear fallback position and has been afforded significant weight in my consideration of this appeal.
6. The Council has drawn my attention to its Design Supplementary Planning Guidance (SPD). This document has been subject to public consultation and is intended to be adopted in February 2022. I recognise that the contribution of this SPD to the evolution of the design of the proposal is moderated by its relatively recent emergence. Nonetheless, I have afforded the document substantial weight in my decision.

Main Issue

7. The main issue is the effect of the proposed development on the character and appearance of the locality.

Reasons

8. Kirby Lane is a relatively narrow country lane that passes along the settlement edge of Melton Mowbray and through the open countryside. The appeal site is bound by mature tree and hedge planting to its sides, with Kirby Fields Park and an industrial estate, beyond these boundaries. The wider area is subject to a number of recently constructed or under construction large scale residential development. Housing within these areas consists of various styles and scales. Dwellings are predominantly two-storey with some bungalows found within small pockets. Housing is largely within 'open plan' medium density estates. These estates include modern housing that is well designed and arranged with space for landscaping within frontages. Further residential sites, close to the appeal site, are due to come forward shortly in accordance with the Council's strategic housing objectives. The appeal site is therefore located within a wider transition area that is undergoing urban expansion.

Density, scale and appearance

9. The outline DAS identifies that 'Main Street' would contain higher density development to reflect its importance as a connecting road through the site. It proposed a net density of 30 dwellings per hectare (dph), with lower density on the edges of the development. This is a reasonable approach to density for this

³ Section73 Variation of Condition Application Reference: 17/00717/VAC

⁴ Design and Access Statement, by FPCR Environment and Design Ltd – 22/10/15

⁵ Reserved Matters application reference: 19/01099/REM

suburban site as there are similar densities within the wider context. The proposed scheme would have a net density of 32 dph. Dwellings would be slightly more dispersed to the edges that face onto the public realm. Consequently, the density and its distribution through the site generally accords with the outline DAS. Whilst the slight density change would not be abundantly apparent within the site, the slightly more dispersed built form on the periphery would assist with its integration with the rural wider context, particularly along Kirby Lane. Consequently, the layout provides a sufficient variation of density to suit the context of the site and its surroundings.

10. The proposed layout would consist of detached and semi-detached dwellings. These would be arranged within a largely open plan development of two and three-storey development. The proposed three-storey dwellings are applied sparingly and used principally to mark the terminus of certain roads or create a variation in roof heights. They would feature on corners and as punctuation, to the housing along 'Main Street'. As a result, the proposed scale generally accords with the local character and the additional height would be distributed in a considered manner to add interest and variety. I also find that this variety assists in the creation of a layout with clear legibility and useful way-finding markers.
11. The proposed dwellings would be well designed with some variety of form but also a shared palette of materials and window design to create a coherent sense of place. Although stating that the proposed dwellings should better reflect the local context, the Council did not provide specific examples that might draw me away from my own understanding of the local character. In contrast, I have found that the design of the proposed dwellings would accord with the main characteristics of local residential areas.

Provision of car parking and arrangement

12. Car parking would consist of a combination of driveway and garage provision. Driveways would be split between frontage and side provision. The level of parking provision is deemed to be acceptable to the Council based on the site's distance from the town centre. The parking areas along 'Main Street' would mostly be to the side of dwellings with buildings placed near to the highway. The result of this would be to diminish any long views of cars parked on driveways. This configuration would reinforce the relationship of built form to the public realm with a clearly defined pattern of development. This approach would satisfy the advice of the National Design Guide (NDG) to provide off street parking that would reduce congested streets and not dominate the streetscene. Away from 'Main Street' front driveways are interspersed with green space, providing tree planting, that would limit the visual impact of parking as envisioned by the NDG.
13. The provision of tandem parking is relatively common throughout the layout. Tandem parking is not recommended in the Council's draft Design SPD being less convenient for users and is to be considered as a last resort. At the hearing the Council identified it was especially concerned with the triple tandem parking spaces. However, these would be used at a modest number of properties overall. Furthermore, these are largely grouped in pairs which would ease manoeuvring and encourage their successful operation. There would also be ample on-street parking space for occupiers of these dwellings to manoeuvre vehicles in the highway as required. Accordingly, this form of

parking provision would not demonstrably hamper the successful use of these driveways or the wider development.

14. I am therefore unconvinced that the proposed tandem parking provision, both double and triple length, would discourage their use and result in substantive on-street parking in this case. I also recognise that a similar approach to parking has been agreed within the Approved Scheme and within phase two. Taking these points together, the proposed parking strategy would not prevent the development from functioning well or harm highway safety.

Provision of open space

15. The Development Framework within the outline DAS shows that the majority of POS would be located within phase two. The Framework also shows the provision of a green corridor alongside the park and a verdant frontage onto Kirby Lane. The majority of the site was therefore intended to have a suburban quality, with limited occasional green areas.
16. The area of POS proposed adjacent to Kirby Lane would provide a wide landscaped area that would enable the frontage to retain a 'rural' character. This relatively spacious sense of arrival would ensure that the development would respond well to the transitional nature of its location. Furthermore, the modest areas of landscaped POS adjacent to the road junction at the centre of the site would provide a point of destination, providing a brief break in built form and assisting with the establishment of a sense of identity for the development. This would also serve to highlight the location of the central pedestrian linkage into the park. Also, as the footpaths would be in safe and clearly identified locations, it is likely that their use would be maximised.
17. The proposal includes space for the provision of street trees, trees within areas of POS and frontage landscaping. Accordingly, trees distributed throughout the estate would make a strong contribution to the character of the scheme, softening the built form. Trees would be placed in grass verges and between parking bays with adequate space for them to survive and mature. As such, it would be likely that trees in these locations would be likely to be retained. Furthermore, a planning condition could be imposed to ensure that the proposed tree cover is maintained until established.
18. The strategic distribution of POS and green infrastructure would accord with the outline DAS and its Framework. The proximity of Kirby Fields Park, with clear pedestrian linkages, would provide easy and convenient access to adjacent recreation land. More locally, the proposed development would include pockets of open space and landscaping. This would provide a balance of built form and open areas that would create a pleasant and interesting place. These are small areas of informal space, as opposed to being specific areas for recreation, as this need would be adequately provided elsewhere. Furthermore, the distribution of informal areas and corridors of open space within the site, would respond positively with the adjacent park and offer a clear transition between these different land uses.
19. Taking the above points together, the proposed development would accord with the settlement pattern, appearance, scale and density of the local area. The scheme would also accord with the outline DAS and would achieve similar design principles to the Approved Scheme. For these reasons, the proposed development would complement the character and appearance of the area.

Accordingly, the proposal would satisfy policy D1 of the Melton Borough Local Plan 2011-2036 (2018) (LP) and the National Design Guide. These, among other matters, seek development to reflect the wider context of the local area and to make places distinctive and memorable. Although not fully according with the Council's draft Design SPD, in regard to parking arrangement, the weight I afford to this conflict is moderate and outweighed by the design merits of the scheme.

Other Matters

20. Interested parties have suggested that the proposal would conflict with policy C2 of the LP. This seeks to manage the mix of housing. However, housing mix is not a reserved matter. The Planning Practice Guidance (PPG) explains that conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted. Therefore, the consideration of specific house sizes, in comparison to policy C2, is not relevant to the proposal.
21. The proposed route through the site from Kirby Lane to phase two is relatively circuitous. The road surface would also be varied with areas of tarmac and block paving to add interest and create a more shared surface. The effect of these design measures would reduce the speed of motorists and encourage road users to apply particular care and attention when driving. Consequently, specific traffic calming beyond these measures would not be required.
22. I have also noted concerns with respect to overlooking. However, due to the separation distance, between existing dwellings and the proposal, the living conditions of neighbouring residential occupiers would not be adversely affected.

Conditions

23. I have considered the use of conditions in line with the guidance set out in the PPG. I have taken into account those conditions listed within the Statement of Common Ground. I shall impose most of these with some amendments and adjustments for clarity.
24. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 3]. Conditions with respect to the implementation of the agreed materials and landscaping are necessary to ensure that the development complements the character and appearance of the area [2 and 4]. It is a requirement for all parking and turning areas to be provided in the interests of highway safety and to ensure that the scheme would function well [5].
25. I have adjusted condition 6 to require *all* private access drives to be completed prior to the associated dwellings being occupied in the interests of the character and appearance of the area. I have not included conditions with respect to doors and windows that might overhang the public highway or to maintain pedestrian visibility splays, as these are not necessary. Similarly, a condition to require garages to be retained for vehicle parking would be unreasonable and unenforceable.

Conclusion

26. The proposal would complement the character and appearance of the area and would accord with the development plan when taken as a whole. Therefore, for the reasons given, I conclude that the appeal should succeed, and planning permission granted.

B Plenty

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Andy Williams	Define
Mr Christopher Young, QC	No5 Chambers
Mr Robert Galij	Planning Director, Barratt Homes
Ms Charlotte Henson	Planning Manager, Barratt Homes
Ms Helen Longden	Barratt Homes

FOR THE LOCAL PLANNING AUTHORITY:

Mr Jim Worley	Assistant Director for Planning and Delivery, Melton Borough Council
Ms Sarah Legge	Local Plans Manager, Melton Borough Council
Mr Timothy David Crawshaw	Urban Design

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the listed approved plans; Location Plan: KLMM/02, Planning Layout inc FFLs: KLMM/P100 rev AB1, Phasing Plan: KLMM/13 Rev F, Sections: KLMM/05S Rev D, Design Code Revision F, and

House Type & Garages: Drawings BAOU 00CD Rev C - Alnmouth (Detached), BDBY 00HD - Denby (Detached), BENN 00CD Rev E - Ennerdale (Detached), BLLE 00HE - Ellerton (End Hipped), BHAL 00CD Rev C - Hale (Detached), BHVR 00HE - Haversham (End Terrace), BHVE 00CI - Haversham (Mid Terrace), BHSK 00CD Rev B - Hesketh (Detached), BKNL 00HE - Kenley (End Terrace), BKNR 00CD Rev B - Kennford, BKEY 00HD - Kingsley, BKIS 00CE Rev E - Kingsville (End Terrace), BKIS 00CI Rev E - Kingsville (Mid Terrace), BMAI 00CE Rev E - Maidstone (End Gable), BMAI 00HE Rev D - Maidstone (End Hipped), BMAI 00CI Rev E - Maidstone (Mid Terrace), BMAR 00CD Rev B - Marlowe, BMH1 00CD - Midhurst 1, BMH2 00CD - Midhurst 2, BMMS 00CE Rev D - Moresby (End Terrace), BRAD 00HD - Radleigh (Detached), TYPE38/39PHR/R3- Type 38 & 39 (End Terrace), B65F 00CE - Type 65 (End Terrace), B65F 00CI - Type 65 (Mid Terrace), B67F 00CE Rev B - Type 67 (End Terrace), B67F 00CI Rev B - Type 67 (Mid Terrace), B69F 00CE Rev B - Type 69 (End Terrace), B69F 00CI Rev B - Type 69 (Mid Terrace), B74F 00CE Rev A - Type 74 (End Terrace), BBNF 03CH/BHVR 03CH Rev NM06/NM06 - Brentford-Haversham Hipped Corner Turner, BBNF 03CH/BHVR 03CH Rev NMC6/NMC6 - Brentford-Haversham Hipped Corner Turner & Chimney, BAOU 00CD Rev NMC5 - Alnmouth Detached (Chimney), BENN 00CD Rev NMC5 - Ennerdale Detached (Chimney), BHVR 00HE Rev R300 - Haversham End Terrace (Render), BHVR 00CI Rev R306 - Haversham Mid Terrace (Render), BHVR 00HE Rev R300 - Haversham End Terrace (Render & Chimney), BHSK 00CD Rev NMC4 - Hesketh Detached (Chimney), BKIS 00CE Rev R305 - Kingsville End Terrace (Render), BKIS 00CE Rev NMC5 - Kingsville End Terrace (Chimney), BMAR 00CD Rev NMC3 - Marlowe Detached (Chimney), LDG1H8 - 6 x 3m Double Garage, LSG1H8 - 6 x 3m Single Garage, SDG2H8 - Standard Double Garage, and SSG1H8 - Standard Single Garage

- 2) The materials used in the development shall be strictly in accordance with the Materials Layout, KLMM/06 Rev H received by the Local Planning Authority on 14th September 2020.
- 3) The hard and soft landscaping shall be carried out in accordance with the listed approved plans: GL0910 01 (Rev H) Soft landscape proposals (1), GL0910 02 (Rev J) Soft landscape proposals (2), GL0910 03 (Rev H) Soft landscape proposals (3), GL0910 05 (Rev A) Tree Plan 2010/DET/203 (1.8m screen wall), 2010/DET/207 (1.8m close boarded fence), 2010/DET/214 (0.9m post and rail), 2010/DET/226 (0.9m estate railings), and KLMM-17 Rev A (feature entrance wall). Any trees or plants which, within a period of five years after planting are removed, die or become, in the opinion of the Local Planning Authority, seriously

damaged or defective, shall be replaced as soon as is reasonably practicable with others of similar species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

- 4) The hard and soft landscaping details approved under condition 3 above shall be implemented in accordance with the following criteria: Individual plot landscaping to be completed prior to first occupation of the plot, All other soft landscaping to be completed prior to the end of the first planting season following the substantial completion of the development, and all hard landscaping shall be completed prior to the substantial completion of the phase as approved in the Phasing Plan listed in condition 1.
- 5) No dwelling hereby permitted shall be occupied until such time as the associated parking and turning facilities for each dwelling have been implemented in accordance with Barratt Homes drawing reference KLMM/P100 Rev AB1. Thereafter the onsite parking provision shall be so maintained in perpetuity.
- 6) No dwelling located on a private drive hereby permitted shall be occupied until such time as its private access drive, and any turning space, has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) and, once provided, shall be so maintained in perpetuity.

End of conditions