



Appeal Decision

Site visit made on 12 April 2016

by Paul Singleton BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 May 2016

Appeal Ref: APP/Y2810/W/15/3138048

Land adjacent 71 Daventry Road, Barby, Northamptonshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by The Trustees of The Lord McGowan Will Trust against the decision of Daventry District Council.
 - The application Ref DA/2014/0796, dated 29 August 2014, was refused by notice dated 1 June 2015.
 - The development proposed is erection of 12 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal was submitted in outline with approval to the means of access also sought as part of the application. All other detailed matters were reserved for subsequent approval but an indicative site layout and landscape masterplan were submitted to illustrate how the site might be developed.
3. The appellant requested that the appeal be dealt with by way of a hearing. The initial reason for that request was that the application had been refused against officer recommendation and that a hearing would provide the opportunity for the reasons for refusal to be fully tested. The appellant subsequently sought to question the robustness of 5 year housing land supply position as set out in the Council's Statement of Case and again suggested that a hearing would be the most appropriate way of examining the issues relevant to the appeal. Having examined the papers and carried out my site visit, I am satisfied that I have sufficient information to understand the arguments put by both sides, to fully assess all of the important issues, and to reach a reasoned judgement on those matters in making my decision.

Main Issues

4. The main issues are:
 - (a) Whether the appeal site is a suitable location for residential development having regard to the aims of local and national planning policies which seek to restrict new housing in the countryside;
 - (b) The effect on the form and character of the village of Barby; and
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- (c) The effect on the remains of ridge and furrow farming within and adjoining the appeal site.

Reasons

5. Saved Policy GN1 of the Daventry District Local Plan (1997) (Local Plan) states that the grant of planning permission will be guided by the need, amongst other things, to protect and enhance the environment, limit development in villages, and severely restrain development in the open countryside. Barby is designated as a 'restricted infill village' by means of saved Policy HS22 which states that planning permission will normally be granted for new residential development in such villages provided that it is small scale, is within the existing confines of the village and does not affect open land which is of particular significance to the form and character of the village. Saved Local Plan Policy HS24 states that planning permission will not be granted for residential development in the open countryside other than in respect of a limited list of exceptions relating to use for agriculture and forestry and the re-use or replacement of existing buildings.
6. The appeal site comprises part of a larger area of agricultural land to the south and east of a row of residential properties fronting Daventry Road, which currently define the edge of the village in this location. Having regard to the definition set out in the supporting text to Policy HS22, both parties agree that the site lies outside of the existing confines of the village and should be treated as being within the open countryside. The appellant accepts that, for these reasons, the proposal is contrary to Policies GN1, HS22 and HS24.
7. Policy R1 of the West Northamptonshire Joint Core Strategy (Part 1), adopted in 2014, (JCS) sets out a spatial strategy intended to enable the provision of the new homes, jobs and services needed in rural area, whilst ensuring that new development is focused in sustainable settlements and that the overall character of the area is protected. The policy states that there is an identified need for 2,360 dwellings in the rural areas within Daventry district and sets a framework for the identification of a rural settlement hierarchy which is to be determined in the Part 2 Plan to be produced by the Council. Until the Part 2 plan is in place, the existing adopted policies will apply. Policy R1 states that residential development in rural areas will be required to meet a number of criteria including that it be within the existing confines of the village and that it should not affect open land which is of particular significance to the form and character of the village.
8. The appellant argues that, because of the age of the Daventry Local Plan, its policies should be afforded limited weight and preference should be given to policies in the National Planning Policy Framework (Framework). However, as confirmed in the recent High Court judgment on this issue¹, the approach set out in paragraph 215 of the Framework is that such policies should be given due weight according to their degree of consistency with the Framework. The Local Plan policies concerned are consistent with the Core Principles of the Framework in relation to achieving sustainable development and recognising the intrinsic character and beauty of the countryside and should, therefore, be afforded full weight. The JCS is a recently adopted plan which has passed through examination and been found to be sound.

¹ Daventry District Council v Secretary of State for Communities and Local Government and Gladman Developments Ltd [2015] EWHC 3459 (Admin)

9. On the basis of the Council's evidence that it is able to demonstrate a housing supply of 5.85 years, the Local Plan policies for the delivery of housing should be treated as being up to date and paragraph 14 of the Framework is not engaged. The appellant's final comments seek to question the robustness of the 5 year supply by querying both the Council's assessment of the 5 year requirement and the identified supply but, even, taking these factors into account, the appellant arrives at a supply figure of 5.04 years.
10. A key factor in the appellant's reworking of the housing requirement in order to produce a higher annualised figure of 641 units is the assertion that a 20%, rather than a 5%, buffer should be applied in view of under delivery in the first three years of the JCS. However, the figures in the appellant's table on page 4 of the final comments show only a very small under delivery in each of the first three years of the plan period and a small over delivery in year 4. In my view, this performance does not equate to a record of persistent under delivery of housing having regard to paragraph 47 of the Framework and the guidance in Planning Policy Guidance (PPG). In connection with this matter I also note that neither of the Inspectors who determined planning appeals within Daventry District in June 2015 appears to have considered that a 20% buffer was required.
11. The Council's August 2015 update in relation to housing land supply deals with the queries raised by those Inspectors as to the rate of delivery of the Northampton College and Micklewell Park sites and I have seen no evidence to suggest that the Council's updated assessment is incorrect in this respect. Hence, I find no clear basis for concluding that the Council is not able to demonstrate a 5 year supply of deliverable sites. Accordingly, I consider that the Local Plan Policies GN1, HS22 and HS24 should be given full weight.
12. However, even if there was any doubt as to the existence of a 5 year overall supply, the Council's evidence, that it has now exceeded the 2,360 dwelling requirement for its rural areas, has not been challenged. This is significant because the latter part (part 3) of JCS Policy R1 states that, once these requirements have been met, further housing development in the rural areas will be only be permitted where it can be demonstrated that it would result in environmental improvements and best practice in design or is required to support the retention or improvement of essential local services that may be under threat, and (my emphasis) has been informed by an effective community involvement exercise, or is a rural exceptions site, or has been agreed through an adopted neighbourhood plan. The appeal proposal does not satisfy these criteria and would, therefore, conflict with JCS Policy R1.
13. I note that the appellant's contention that Barby has a good range of facilities and services and that it is likely to be a location where part 2 of the JCS might propose further residential development. However, that is a matter for the Council to determine through the preparation of that plan and is not something on which I am able to reach any conclusion. For this reason, and in view of the Council's evidence that the rural areas component of the identified housing need has already been exceeded, I am not able to conclude that there is a likelihood that land outside of the existing confines of the village would need to be allocated in that plan in order to meet the identified housing requirements.
14. In relation to this matter I also note that the vision and objectives set out in the submission version of the Barby and Onley Neighbourhood Development

Plan (Neighbourhood Plan) for the period 2015 -2029 envisage a parish that retains and enhances its rural form and character and that the Plan identifies the community's clear preference for small scale housing development in keeping with the village's rural character. The Neighbourhood Plan's draft housing policies support development on infill sites and state that development outside of the existing confines will be permitted only where it involves the re-use of buildings or, in exceptional circumstances, where it would maintain or enhance the vitality of rural communities or would contribute towards and improve the local economy (Policy BO-H1). Policy BO-H2 states that development in the open countryside outside of the defined villages will not normally be permitted. The proposal would not be consistent with those draft policies.

15. The Neighbourhood Plan is not yet adopted but is at a reasonably advanced stage of preparation and paragraph 216 of the Framework advises that weight may be given to emerging plans according to their stage of preparation (the more advanced the preparation, the greater the weight that may be given). A number of decisions issued by the Secretary of State indicate the Government's view that considerable weight can be attached to neighbourhood plans even if they have not yet proceeded to examination. I have no information as to whether any objections have been made in relation to the housing policies in the draft Neighbourhood Plan and am not able to anticipate what the outcome of the examination might be. However, in the absence of any demonstrable need for the proposed dwellings in order to meet local housing requirements, I see no reason for granting permission for a proposal which appears to be at odds with the objectives and policies of the emerging Neighbourhood Plan.
16. For these reasons, I conclude that the proposal would conflict with saved Local Plan policies GN1, HS22 and HS23, which together seek to limit development in the restricted infill villages and severely restrain development in the open countryside, and with JCS Policy R1, which carries these objectives forward and imposes strict restrictions on development outside of the existing confines of such villages once the identified needs for new housing in rural areas has been met. I accept that the housing requirement figures set out in the Core Strategy should be treated as a minimum figures rather than a ceiling with regard to new development. However, in view of the evidence that the rural areas housing requirement has already been met and exceeded, there is no pressing need for the development of new housing on a site in the open countryside, contrary to the provisions of the development plan and the objectives and policies of the emerging Neighbourhood Plan.

Effect on form and character of the village

17. Due to the extensive tree and hedge planting to the Daventry Road and the Ridgeway frontages of the site and adjoining open land views of the proposed development from these public roads would be filtered and its visual impact would be reduced as a result. Some views would, however, be available through the existing field entrances on the Ridgeway and from the section of Daventry Road close to the primary school where there are larger gaps in the boundary vegetation. The location of the site access, opposite the primary school, would mean that the development and the changed character of the site would be readily apparent to large numbers of people coming and going to the school.

18. My observations on my site visit are that, in short to medium distance views from the public footpath that runs north east to south west through the remaining part of the appellant's ownership, the appeal site stands in a relatively prominent position on a small plateau at the top of an area of rising ground. In these views the site is seen against the backdrop of trees and other vegetation to the roadside boundary, with the Daventry Road houses, part of the school and parts of the School Close properties also visible above that background. I consider that, in these views, the open character and use of the site make a positive contribution to the rural form and setting of the village and that the appeal proposal would represent a harmful intrusion into that setting.
19. Its effect on the setting of the village would be made more significant because of the contrived boundary of the appeal site which neither follows any existing field boundaries or identifiable features on the ground nor reflects the built form of the existing properties fronting onto Daventry Road. I have given careful consideration to the landscape master plan and outline proposals for landscaping to the boundaries of the appellant's wider land ownership but do not feel that this landscaping would provide adequate mitigation for the harm that would be caused to the landscape character and setting of the village. I note that a similar layout has been adopted in School Close but do not consider that this should be seen as setting a precedent for the development of the appeal site and, in my view, the proposed form and layout of the appeal scheme would be incongruous within the overall character of the site and its surroundings.
20. Having regard to the definition of 'important open land' as set out in the explanatory text to Policy HS22, the appeal site is not a site with large open frontages but, even in the filtered views through the boundary vegetation, there is a clear perception and appreciation from the adjacent public roads of the large expanse of open land at this corner of the village. Its contribution to the setting of the village is yet more apparent when viewed from the public footpath. For these reasons I agree that the site can properly be regarded as being of particular significance to the form and character of Barby and that, by resulting in the loss of this land, the proposal would conflict with Local Plan Policies HS22 (C) and with JCS Policy R1 (B) which seek to protect such land from development.

Heritage assets

21. Although there is some difference of view between the County Archaeologist and the appellant's heritage advisor as to its heritage significance the northern part of the site contains remains of ridge and furrow that forms part of a more extensive area of such remains to the east of the village. My observations on my site visit are that the ridge and furrow on the eastern side appears, from public vantage points, to be more extensive and better preserved than much of that in other parts of the village.
22. Based on those observations and the evidence submitted by the parties, I find that the ridge and furrow within the appeal site and the wider area of the appellant's ownership is generally well preserved and that it makes a positive contribution to the historic, rural character of the village; it is therefore properly regarded as a non-designated heritage asset. Paragraph 135 of the Framework advises that the effect on the significance of a non-designated heritage asset should be taken into account when considering development

proposals and that a balanced judgement will be required having regard to the scale of likely harm or loss and the significance of the asset.

23. In this case, although only a relatively small area ridge and furrow would be affected the loss of this element would, in my view, adversely affect the significance of the asset as a whole. In this regard the proposal would conflict with JCS Policy BN5, which requires that developments in the vicinity of such assets should sustain and enhance the heritage and landscape features which contribute to the character of the area. It would also conflict with paragraph 132 of the Framework, which states that clear and convincing justification should be required for any harm to or loss of heritage assets. In the absence of a clear and pressing need for the proposed dwellings no such justification has been demonstrated.

Other Matters

24. The Council's policies require that a development of this scale should include affordable housing and the appellant has submitted a Unilateral Undertaking which seeks to secure that 40% of the proposed units would be affordable dwellings. The Council has raised a number of concerns as to the adequacy of the Undertaking as a means of securing that provision and I agree that there are some deficiencies in the document in relation to the inclusion of actions or covenants by the Council and the developer when neither of these parties is a signatory and in relation to design standards and the Choice Based Lettings Agreement.
25. The provision of 5 affordable housing units would be a potential benefit which would weight in favour of the proposal but I do not consider that this would be sufficient to outweigh the harm that I have identified. Hence, whilst in other circumstances, it would have been appropriate to provide the appellant with the opportunity to amend the Unilateral Undertaking, this would not have led me to reach a different conclusion as to the merits of the appeal.

Conclusions

26. The appeal proposal could potentially make a small contribution to meeting the housing requirement in the borough and would provide for an element of affordable housing to meet local needs. However, in light the evidence that the rural areas housing requirement has already been met, there is no clear and pressing need for the 12 dwellings proposed. Neither are there any other considerations which would outweigh the harm that the proposal would cause or justify a grant of planning permission contrary to the provisions of the development plan.
27. For these reasons, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Paul Singleton

INSPECTOR