



Appeal Decision

Site visit made on 31 October 2016

by **S D Harley BSc(Hons) MPhil MRTPI ARICS**

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

Decision date: 9th November 2016

Appeal Ref: APP/F2415/W/16/3156226

Land off North Lane, Foxton, LE16 7RF

- 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 Mr J Carter against the decision of Harborough District Council.
 - The application Ref 15/01895/OUT, dated 26 November 2015, was refused by notice dated 21 July 2016.
 - The development proposed is erection of 13 dwellings with associated open space and access.
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Decision

1. The appeal is dismissed.

Procedural matters

2. This application is in outline with access as the only detailed matter for determination. Issues of layout, scale, appearance and landscaping would be for consideration at the reserved matters stage. On this basis and with the exception of details relating to access I have considered the submitted plans as illustrative only.
3. The appellant has indicated a willingness to accept a limitation to 8 or 9 dwellings but that is not the proposal before me and I have considered the appeal on the basis of the submitted application.

Main Issue

4. The main issue in this appeal is whether or not the site is suitable for housing having regard to local and national planning policies in particular heritage and countryside policies.

Reasons

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this appeal the development plan comprises the Saved Policies of the Harborough District Local Plan (the LP), as long as they are consistent with the National Planning Policy Framework (the Framework), and the Harborough District Core Strategy November 2011 (CS). A Neighbourhood Plan for Foxton is being prepared and has been formally submitted to the Council but as it has not been brought into force the weight given to it is limited. The minimum housing need
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for Foxton up to 2031 is 27 and the Neighbourhood Plan proposes the allocation of 3 housing sites.

Heritage and countryside

6. The site is outside the Foxton Limits to Development. The proposal would be contrary to Policy H/S8 of the LP and those parts of Policy CS17 which say housing development will not be allowed outside the Limits to Development and seek to strictly control development in the countryside. Policy CS2a is more flexible in providing an exception to this where there is less than a five year supply of deliverable housing sites and the proposal is in keeping with the scale and character of the settlement concerned.
7. The evidence indicates that the Council cannot demonstrate a five year supply of deliverable housing sites. In accordance with Paragraph 49 of the Framework Policies H/S8 and CS17, which are policies for the supply of housing, are not considered to be up to date. Therefore housing proposals should be considered in the context of the presumption in favour of sustainable development in paragraph 14. This says that where relevant policies of the development plan are out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted. Footnote 9 refers to designated heritage assets, which include conservation areas, in this context.
8. The appeal site is within the Foxton Conservation Area (the CA). The Planning (Listed Buildings and Conservation Areas) Act, 1990, requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas. There is a strong presumption in the Framework against development which will harm the character or appearance of a conservation area and in favour of sustainable development of high quality design. Policy CS11 seeks to protect heritage assets and to ensure development in conservation areas is consistent with the special character as described in the Statement or Appraisal for that Area.
9. The village of Foxton is set within open rolling agricultural land with some scattered dwellings and farms. The CA boundary includes almost all the village which comprises the oval of roads extending from Main Street to Swingbridge Street. The street pattern is characterised by three parallel roads sloping down from the Church. The oval towards the south is bisected by the canal. All of the land between Main Street and North Lane is included in the CA.
10. The character of the main part of the village is that of older houses and farmsteads mixed with 17th and 18th century houses and more modern housing in the western part. There are dispersed open areas, mainly large gardens and paddocks, and many mature trees and hedges within the village and along North Lane. North Lane itself is a "back lane" and narrow and rural in character. The large mainly open area to the east of North Lane which fringes the built form of the village is undeveloped apart from No 15 North Lane which is a paddock with mobile home and outbuildings.
11. The appeal site is a large part of a paddock and about half the area of informal car park used by Carter Design Group. It is bounded to the north and west by North Lane which extends in a C shape from Main Street. The proposed

development would erode the open character of this part of the CA and interrupt historic paddock uses. As a self-contained development off the narrow back lane the proposal would not fit comfortably into the built form of the village but would be out of character with the historic street form.

12. The land to the west of North Lane is mainly agricultural fields with some log cabins. However, these are well dispersed and do not extend the village into the countryside or provide a context for development on the appeal site. Similarly the complex of buildings and activities at Fisher's Farm extend to the north of North Lane opposite built up areas of the village and do not provide a built context for development on the appeal site. However, North Lane does separate the site from the fields beyond. The site is adjacent to built development and part of the site is an informal car park. Accordingly although the proposal would extend the built form of the village I conclude it would not unacceptably intrude into the countryside.
13. The area of land between North Lane and the edge of village development is not identified as important open space in any development plan or other document submitted in evidence for this appeal. There would be a loss of trees and hedging to create the access and visibility splays but the majority of the trees/hedges along North Lane would be retained and supplemented. The site rises gently up towards the village and is well contained by trees and hedges along North Lane apart from the gated access which includes a footpath entrance.
14. There are only limited views of the site from the wider area and there would be no effect on Listed Buildings. The proposed development would be relatively low density. Although the application was submitted in outline a mix of house sizes and designs could ensure the buildings were of a character appropriate to the CA. A substantial part of the paddock outside the appeal site would remain undeveloped. The eastern boundary of the appeal site would be set in from the boundaries of properties which face towards Main Street and open space is proposed within the development. Together these would help preserve the character of the CA of houses interspersed with open spaces. The public footpath across the site would be retained. For these reasons I conclude that the harm to the character and appearance of the CA would be less than substantial.
15. Paragraph 134 of the Framework says that where a proposal will 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.

Public benefits

16. The Framework seeks to boost significantly the supply of housing and to meet the objectively assessed needs for market housing and affordable housing. Foxton has local services including a primary school, shop, village hall and two public houses and there are public transport links to Market Harborough which is about 4 miles away. Under Policy CS17 it is defined as a Selected Rural Village suitable for some residential growth. The proposed development would provide 13 dwellings in an accessible location to help meet the housing needs of the District. However, although affordable housing is proposed there is no mechanism to secure the delivery of this to meet the requirements of Policies CS3 and CS12. The evidence indicates the Council can demonstrate a 4.66 years supply of deliverable housing land and the Neighbourhood Plan has

identified other sites for housing. In this context I give the delivery of housing moderate weight as a public benefit. Similarly there is no mechanism to deliver the proposed open space and I therefore give it little weight as a public benefit.

17. The construction of the development would also result in employment, generate economic activity and increase local spending power. This attracts some positive weight as a public benefit.
18. Taking all these matters into account, I conclude that the public benefits of the proposal would not, on balance, outweigh the harm that would be caused to the CA and the proposed development would not comply with the development plan policies relating to heritage or provision of affordable housing or the principles of the Framework including the requirements of Paragraph 14.

Other Matters

19. Policy CS12 seeks contributions to infrastructure and the Planning Committee report sets out the contributions sought. No obligation was provided with the planning application but the lack of an obligation does not feature as a reason for refusal on the planning decision notice.
20. I acknowledge that the appellant has indicated a willingness to enter into an obligation. However, the Procedural Guide: Planning Appeals 5 August 2016 says that if the appellant intends to send a planning obligation and wants to be certain that it will be taken into account by the Inspector they must make sure that it is executed and a certified copy provided no later than 7 weeks from the start date. I have seen no evidence of what infrastructure would be provided. Accordingly I can reach no conclusion as to whether the effects of the proposal on Civic Amenities, Education, Highways, Libraries, Community Facilities or Open Space would be mitigated or not.
21. The proposal was amended to remove the area of land in Flood Zone 2 and there are no objections from the Environment Agency.
22. The appellant has provided examples of decisions on other sites. From the evidence it appears that the proposals Ref 16/00115/OUT and 15/01471/OUT relate to sites that are not in a conservation area, did not have an impact on heritage assets and were identified within the Strategic Housing Land Annual Assessment which appears not to be the case in the appeal before me. The Inspector in granting appeal Ref APP/D3125/W/16/3143881 found that land between the edge of the appeal site and the boundary of that conservation area had recently been developed isolating the site from the countryside around, which is not the case with the appeal before me, and the shortfall of deliverable housing land supply in that case was much greater.
23. Whilst acknowledging the amount of work that has gone into preparing the Neighbourhood Plan it is not yet at a stage that would allow its policies full weight. I have therefore given it proportionate weight as did the Inspectors in deciding the appeals quoted by the appellant Refs APP/L3815/W/15/3138439 and APP/J3720/W/15/3129437.
24. Whether or not other sites being considered through the Neighbourhood Plan would have a greater effect on heritage assets or on the living conditions of local residents are not relevant matters that lead me to any different conclusion on the appeal before me.

25. Whether or not the proposal was amended during the course of the application or whether there was any delay in the observations of the Conservation Officer are not matters that go to the heart of the planning considerations of the case.

Planning Balance and Conclusion

26. The proposal would be contrary to policies H/S8 of the LP and CS2a, CS11 and CS17 of the development plan. Schemes that conflict with the development plan should be refused unless material considerations indicate otherwise. As I have noted earlier the Framework is an important material consideration and I have found that in accordance with the Framework's policy on designated heritage assets the public benefits of the appeal scheme would not outweigh the harm that would be caused.
27. Paragraphs 7 and 8 of the Framework detail the three mutually dependent economic, social and environmental roles of sustainable development, which should be sought jointly and simultaneously through the planning system.
28. Socially, the proposed development would make a contribution towards helping address the apparent shortage of housing in the District, which is a social benefit, but would not address the lack of affordable housing. It would provide some economic benefits in terms of construction jobs and spending in the local economy.
29. The site is in an accessible location close to the village centre where there are some services and facilities capable of meeting some of the day to day needs of its residents. There is access to public transport links to Market Harborough with a wider range of service and facilities. However, I have found that the public benefits would not outweigh the harm to the CA.
30. The social and economic benefits described attract some weight but do not outweigh the environmental harm that would be caused. As a result, the proposal would not represent sustainable development as defined in the Framework. On balance I therefore conclude that, taking into account the material considerations, the site is not suitable for housing having regard to local and national planning policies in particular heritage and countryside policies. The appeal should not succeed.

SDHarley

INSPECTOR