



Appeal Decision

Hearing Held on 12 October 2017

Site visit made on 12 October 2017

by J Wilde C Eng MICE

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

Decision date: 18th October 2017

Appeal Ref: APP/U1240/W/17/3176819

Land at Pardy's Hill, Corfe Mullen, Dorset BH21 3HW

- 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 Kevin Hodder (East Borough Housing Trust) against the decision of East Dorset District Council.
 - The application Ref 3/16/0614/OUT, dated 27 April 2016, was refused by notice dated 14 February 2017.
 - The development proposed is twelve affordable dwellings and associated access.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application was made in outline with all matters other than access reserved for later determination.

Main Issues

3. The main issues are whether or not:-
 - a) The proposed development could be defined as an affordable housing exception site.
 - b) The proposed development would be inappropriate development in the Green Belt, and the effect of the proposed development on the openness of the Green belt,
 - c) The effect of the proposed development on flooding in the area, and on
 - d) The character and appearance of the area.

Reasons

4. The appeal site forms part of a field located adjacent to the settlement boundary of Corfe Mullen and within the South East Dorset Green Belt (GB). There are houses on the opposite side of Pardy's Hill and the land to the west of the site is designated as an Area of Great Landscape Value (AGLV).

Whether or not the proposed development could be defined as an affordable housing exception site.

5. Policy LN4 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (CS) deals with affordable housing exception sites, and makes clear that it applies to the settlement of Corfe Mullen. At the Hearing it was agreed by the main parties that the crux of the matter between them relates to the second bullet point of the policy which requires that any development proposed under the policy must meet demonstrated local housing needs.
6. I will deal firstly however with the likely supply of affordable homes in Corfe Mullen. The CS is dated April 2014 and extends to 2028. It is therefore only three and a half years into a fourteen year plan period and the Council can demonstrate a five year supply of housing land. Section 9 of the CS deals specifically with housing in Corfe Mullen, culminating in policy CM1. This identifies two sites, based around Lockyer's school, that are intended to provide a total of 250 new homes, one of 150 and one of 100. The CS indicates that green field sites, which would include the larger of the two sites mentioned above, should provide up to 50% affordable homes, whilst previously developed sites such as the smaller of the two, should provide 40% affordable housing. It was originally intended that the larger of the two sites would be completed by April 2018.
7. During the Hearing it was confirmed that the larger site now has outline planning permission for 112 dwellings of which 25% would be affordable, equating to 28 affordable dwellings. At the time of the Hearing the Council indicated that the legal agreement relating to the site was about to be signed. However, reserved matters and pre-commencement conditions still have to be agreed. It seems highly unlikely therefore, on the balance of probability, that any work will commence on site until 2018 at the earliest, the year when it was originally intended that it should be completed. Furthermore, the site will contain 38 less dwellings than originally intended with the ratio of affordable dwellings at half originally intended.
8. The smaller of the two sites referred to in policy CM1 contains a school that was intended to be replaced by a new school on a new site. However, this school is now an Academy and therefore not under the direct control of the Education Authority. It has also had funding spent on it to improve it and consequently it seems very unlikely that the second site will come forward at all. In summary therefore it is likely that only about 28 affordable homes will be developed in Corfe Mullen under policy CM1 by about 2020 at the earliest.
9. I note that affordable housing could also come forward through policy LN3. However, the Written Ministerial Statement of 1 December 2014 limited the provision of affordable housing to sites over ten units, and I have been supplied with no compelling evidence to show that a significant number of affordable dwellings could be generated via policy LN3.
10. In terms of local affordable housing need a Housing Research Report (HRR) relating to Corfe Mullen was published in March 2015. This was a joint initiative between Corfe Mullen Parish Council and East Dorset District Council. The report concluded that there was a need for about 35 affordable homes in Corfe Mullen in the period 2015-2018 and about 46 between 2015-2020. Whilst these figures are not absolute, they are of a scale that was accepted by

both main parties at the Hearing, and I consider them to be the best available evidence relating to local need.

11. The HRR also concluded, in the fifth bullet point of its findings and recommendations, that based on currently available information, this need could be met from the first phases of the development resulting from policy CM1 which should provide up to 75 affordable dwellings in the short to medium term, should they come forward as anticipated. The sixth bullet point states that notwithstanding the above recommendation, it would be potentially useful for the Parish Council to undertake further work on a shortlist of potential sites for a small scale affordable housing scheme, *should the new neighbourhood not come forward in the timescales currently envisaged* (my highlighting).
12. I have found that the new neighbourhood is not coming forward in the timescale envisaged at the time of conception. Furthermore, fewer dwellings are being provided on the larger site than anticipated, with a lower percentage of affordable houses, and the smaller of the two sites may well not come to fruition at all.
13. I also note that the letter dated July 2014 that accompanied the housing survey forms that resulted in the HRR starts off by stating that *the Parish Council is aware that the lack of affordable housing is a major issue* and that *no affordable housing has been built in the village for many years*. Furthermore, the 2012 Strategic Market Housing Assessment identified a need for affordable housing in the parish of 44 units per year and 426 units per year across East Dorset as a whole. However, this figure was not taken forward in the CS due to its potential impact on the overall housing market. The SHMA actually concluded that the need for Corfe Mullen was 21 dwellings per year of which 40% should be affordable. This would equate to about 9 affordable dwellings per year, and since adoption of the CS none have been provided.
14. It seems to me therefore that it has been shown that the proposed development would meet demonstrated local affordable housing need and in this respect would be in compliance with policy LN4.
15. In arriving at this conclusion I note that the Council's Supplementary Planning Document entitled *Housing and Affordable Housing* makes clear in paragraph 5.8 that *the type and tenure of affordable housing to be provided on exception sites must be address demonstrated local community housing need identified through up to date parish needs surveys or research using methodologies supported by the Local Planning Authority. Such research should normally be undertaken in partnership with the local community and appropriate Parish Council*. I acknowledge that HRR is now two years old and that the appellant has had no hand in its formulation. Nonetheless the Parish Council was involved in the formulation of the HRR and whilst it may be two years old, I cannot see that the affordable housing situation has improved in that time.
16. I also acknowledge that the HRR was based on a low response rate. Nonetheless it is the best evidence currently available and it is very possible that a larger response could have in turn demonstrated a larger affordable housing need. The Council have questioned the site selection process and also pointed out that the SPG defines small scale as usually no more than 10 dwellings. However, the HRR looked at a large number of sites and the majority of respondents cited Parady's Hill as suitable. Furthermore, given the

identified need, the quantum of twelve dwellings is not so far removed from ten as to mean that the appeal should be dismissed on that basis.

17. However, notwithstanding my above findings, whilst the application was for 12 affordable dwellings I have nothing before me in the form of a legal agreement that would ensure that any dwellings built would actually be affordable, or indeed affordable in perpetuity, as required by the SPG and by policy LN4. Therefore whilst the intention of the proposed development would comply with policy LN4, the actuality of it is that I have no option but to dismiss the appeal as not complying with that policy.

Green belt

18. Paragraph 89 of the National Planning Policy Framework (the Framework) indicates that the construction of new buildings in the Green Belt is inappropriate unless one of six exceptions is met. The fifth of these exceptions is limited infilling in villages, and *limited affordable housing for local community needs under policies set out in the local plan* (my highlighting). As I have found that due to the lack of a legal agreement the proposed development would conflict with policy LN4 of the CS, it follows that the proposed development has to be considered inappropriate development.
19. Paragraph 87 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 88 of the framework makes clear that substantial weight should be given to any harm to the Green Belt. In this case therefore, as the proposed development would not come under one of the exceptions given in paragraph 89 of the Framework, very special circumstances have to be demonstrated for it to be allowable in respect of Green Belt policy.

Openness

20. Openness in Green Belt terms can be considered to be a lack of built form. The proposed development would result in additional built form and would therefore have a harmful effect on the openness of the Green Belt.

Flooding

21. Due to a combination of topography and localised water courses the appeal site suffers from flooding problems, particularly to the south of the site. The appellant has provided a Flood Risk Assessment (FRA) compiled by Mr Frank Tyhurst. This document is somewhat brief but points out that the application is in outline and that there appears to be no flood risk reason why this development should not proceed as proposed. The FRA also makes clear that *the developer intends to employ a specialist consultant to compile a comprehensive surface water drainage strategy, which will be centred on the design of a Sustainable Urban Drainage Scheme. The aim of the strategy will be to demonstrate that surface water drainage can be accommodated entirely on the site, probably by soakaways served by attenuation tanks.*
22. However, the Council's specialist consultee on this matter, Dorset County Council, point to the existence of a watercourse not specifically referenced in the FRA and to the fact that no evidence has been provided to show that soakaways would work in this particular area. They also indicate that theoretical mapping suggests a significant risk to units 1-4 as shown on the indicative site plan.

23. Whilst in general I would accept that a condition could be imposed at outline stage to require further details of drainage, in this particular case, given the brevity of the FRA and the particular site circumstances, I concur with the Council that further information should be provided to demonstrate that it would be possible to satisfactorily manage the likely received and newly produced surface water flows.
24. In arriving at this conclusion I note that the Planning Practice Guidance (PPG)¹ indicates that a FRA should demonstrate to the decision maker how flood risk will be managed now and over the development's lifetime. The submitted FRA fails to do this. I also note that paragraph 103 of the Framework makes clear that *when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere*. It seems to me that the Council were not able to comply with this requirement given the paucity of information that they received.
25. Given my findings above the proposed development would conflict with policy ME6 of the CS. This requires, amongst other things, that developments will be required to demonstrate that flood risk does not increase as a result of the development proposed.

Character and appearance

26. The trees to the road side of the appeal site along Sleight Lane and the upper north section of Pardy's Hill are protected by tree preservation orders² and the Council have concerns that these could be adversely affected by the proposed development, which in turn would impact upon the character and appearance of the area. In particular my attention has been drawn to the fact that units 8-12 appear too close to the canopy of the trees, that the footpath access from Sleight Lane could potentially interfere with the adjacent trees and that the crown spread of tree T8 is closer to 10m over the site than the 6m shown.
27. I am mindful however that the scheme has been submitted in outline, with layout as a reserved matter. I have been given no significant evidence to show that it would be unlikely that a scheme could be submitted that demonstrated that no harm would be occasioned to the trees, either directly or through future amenity pressure from residents. Given that conclusion it follows that no harm would be occasioned to the character or appearance of the area by virtue of disturbance or harm to the protected trees.
28. In terms of a more general impact on character and appearance, the proposed development would replace a green field with built development. Whilst this would be relatively well shielded by the surrounding vegetation, particularly in autumn and winter, there would nonetheless be some views of the proposed development available, particularly from the B3074, from where the development would be seen as an intrusion into the green valley. However, I do not consider that any harm generated by the proposal would be at such a level to merit dismissing the appeal on this ground, when balanced against the pressing need for affordable housing.

¹ Paragraph 7-030-20140306

² The East Dorset District (Sleight Lane No.5 Corfe Mullen) Tree Preservation Order 2006

29. In their reason for refusal the Council also mention an impact on tranquillity. However, there are already houses on the opposite side of the road to the appeal site, and I do not consider that the area is so tranquil at present such that the proposed development would significantly compromise this tranquillity.
30. In light of this I find that there would be no conflict with policies HE2 and HE3 of the CS. The former of these requires, amongst other things, that development is compatible with its surroundings in terms of visual impact and its relationship to mature trees. The latter requires, amongst other things, that development demonstrates that tranquillity and visual amenity have been taken into account.

Conclusion

31. I have found that the proposed development would fulfil a housing need such that in that respect it would comply with policy LN4 of the CS. However, the failure to provide a legal agreement to ensure that the dwellings would be affordable negates that compliance and therefore conflict with policy LN4 exists. Due to that conflict the proposed development would be inappropriate development in the Green Belt. The proposal would also harm the openness of the Green Belt and I have also found conflict with policy ME6 in respect of flooding.
32. There are no other considerations that outweigh the identified harm. Consequently very special circumstances, necessary to allow the appeal, do not exist. Having taken all other matters into careful consideration, including the issues raised by interested persons at both the application and appeal stages, I therefore dismiss the appeal.

John Wilde

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr R Henshaw	Intelligent Land Planning Consultants
Mr	East Borough Housing Trust
Mr G A Perry	Land owner

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Brightman	EDDC
Mr S Trueick	EDDC
Mr J Nicholson	EDDC
Ms S Woodhouse	DCC

INTERESTED PERSONS:

Mr J Goddard	
Ms S Parkin	
Mr R Lee	All local residents
Mr P Reed	
Mr R Peake	
Mrs J Goddard	

DOCUMENTS

- 1 Letter dated July 2014 sent out by Corfe Mullen Parish Council to residents.
- 2 Housing Research Report.
- 3 2011 Strategic Housing Market Assessment update.
- 4 Strategic Housing Market Assessment summary dated August 2015.
- 5 Additional Condition suggested by the Council.

PLANS

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| A | Surface water flooding map of Pardy's Hill. |
| B | Tree survey and constraints plan. |