



Appeal Decision

Site visit made on 19 March 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2018

Appeal Ref: APP/T2405/W/17/3185007

Land off Enderby Road, Whetstone, Leicester LE8 6JS

- 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 Westleigh Partnerships Ltd and David Hair against the decision of Blaby District Council.
 - The application Ref 16/1085/FUL, dated 5 April 2016, was refused by notice dated 26 June 2017.
 - The development proposed is residential development comprising of 43 dwellings, associated infrastructure, open space and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the submission of further technical drainage details, the Council is satisfied that such matters can be adequately covered by means of appropriate planning conditions and no longer seeks to maintain a justification for withholding permission on this reason for refusal. From all that is before me, I have no reason to take an alternative view and have determined the appeal on that basis.
3. The appellant submitted amended plans in an attempt to address the Council's concerns relating to noise and disturbance. Guidance¹ is clear that the appeal process should not be used to evolve a scheme. However, whilst I do not consider the changes to the layout of the scheme to be minor, a satisfactory level of consultation has taken place on the proposed amendments. Having regard to the *Wheatcroft Principles*, I am satisfied that I can take the latest incarnation of the plans into account without prejudice to anyone's case in this appeal.

Main Issues

4. The main issues are:
 - whether it would accord with the development plan strategy for the location of housing
 - the effect of the proposal on the character and appearance of the area including having regard to both the function of the Soar Valley South Green Wedge and whether the scheme would be of an acceptable design

¹ Procedural Guide – Planning Appeals -England

- whether it would preserve or enhance the character or appearance of a designated heritage asset
- the effects on the living conditions of the proposed development's future occupants with regard to noise and disturbance

Reasons

Development plan strategy

5. The development plan for the area comprises the Blaby District Local Plan Development Plan Document (Core Strategy) (2013) (CS) and the saved policies of the Blaby Local Plan (1999) (LP). The development plan period runs to 2029.
6. CS policy CS1 is the overarching policy for housing growth in the District and it requires the majority, some 5750 dwellings, to be provided within or adjacent to the Principal Urban Area (PUA) which lies next to the outskirts of Leicester. Of these, 4250 dwellings are to be provided by way of the Lubbesthorpe Sustainable Urban Extension (LSUE) under CS policy CS3. The remainder will be located in the non-PUAs which include the 'Larger Central Villages' of which Whetstone is one as identified in CS policy CS5.
7. The CS identifies a minimum requirement of 365 dwellings to be provided in Whetstone. The proposal would result in this being exceeded by 145 dwellings. I accept that a minimum is exactly that and I am also mindful that paragraph 47 of the National Planning Policy Framework (the Framework) seeks to boost significantly the supply of housing.
8. The appellant argues that it is the physical and policy constraints that have led to the identified housing growth at Whetstone and that where they can be addressed there is no bar to increased housing provision. However, I do not find this to be a compelling argument as housing growth could then be open ended in this settlement and indeed in others. It is too simplistic an argument to suggest that because there is no fixed development ceiling, more housing would not conflict with policies CS1 or CS5. Bringing more housing forward in Whetstone at the expense of the PUA would compromise the CS's hierarchical housing growth strategy. Moreover, it would lead to an excessive level of development in Whetstone resulting in unsustainable pressure on local services and facilities.
9. The available evidence indicates that of the 2,990 houses required in the non-PUAs, about 3,721 are already built or committed, thus exceeding the minimum target by 731. This is a significant figure and the proposal would take it to about 774 dwellings. This would be likely to increase even further given that the Council has to provide housing in other settlements, thus compounding the harm I have just identified.
10. I have had regard to the Inspector's decisions in the Countesthorpe Road/Springwell Lane appeals². However the conclusions therein were reached in a materially different context as at that time, the Council had not met its requirement for housing in Whetstone. Notwithstanding this, the Inspector also considered that growth above about 30%, as in those cases would be excessive

² APP/T2405/A/13/2193758 and APP/T2405/A/13/2193761

for similar reasons to those I have set out above. These other decisions do not tip the balance in favour of this appeal scheme.

11. There is no dispute that the Council can demonstrate more than a five year supply of deliverable housing sites. Consequently, taking this into account with the levels of growth already taking place in the District and the amount of time remaining within the plan period, more housing in Whetstone is not something that needs to come forward now. In any case, the plan period has a considerable amount of time yet to run and I am satisfied that there is sufficient flexibility within the hierarchical CS approach to address any under-provision, should it arise, in future years. If I were to allow this appeal, it would materially harm the delivery of future housing envisaged within the development plan strategy. The proposal runs counter to CS policies CS1 and CS5.

Character and appearance/Green Wedge/design

12. The now somewhat overgrown appeal site lies to the west of the settlement and immediately on the other side of a high former railway embankment that is now part of the Whetstone Way recreational route. This is a prominent feature that provides a strong physical edge clearly separating and delineating the built-up area from the open countryside beyond.
13. The site is widely visible from public vantage points along the embankment and from Enderby Road that borders its northern edge. Whilst there is some built development to the north, west and south-west of the site, it does not detract from the overwhelming sense that the site forms an intrinsic part of the rural landscape. I note the viewpoint locations within the submitted Landscape and Visual Appraisal Report³ but consider that they underplay the actual visual experience of the site when walking along the embankment and from next to the site on Enderby Road.
14. It is clear to me that the development would be highly visible and incongruous in this rural landscape as a result of extending beyond the very well-defined edge to the settlement. Even though the development would include a comprehensive landscape scheme including along the slope of the embankment and fronting Enderby Road, a strong perception of the development's existence would nonetheless remain and it would not therefore mitigate the landscape harm.
15. The LP defines the site as part of a Green Wedge. CS policy CS16 seeks to maintain the open undeveloped nature of the Green Wedges and states that they are designated with the intention of preventing the merging of settlements; guiding development form, providing a green lung into urban areas; and a recreational resource. The proposed development does not accord with the land uses typically located in Green Wedges as set out in the policy.
16. However, the policy also recognises that the retention of the Green Wedges will be balanced against the need to provide new development in the most sustainable locations. Green Wedge boundaries are to be formally reviewed through an Allocations, Designations and Development management DPD. Although a review is underway, it is at a relatively early stage and there can be no certainty that the Green Wedge boundaries will not change.

³ Dated 20 November by rg+p Ltd, reference 50143

17. However, given the amount of housing that has already been committed or built in Whetstone, coupled with the clear visual and physical separation of the site from the built-up area, the site's inclusion within the Green Wedge contributes very significantly to maintaining its valuable function in ensuring that there is no spread of development to the west of the embankment. The proposed development would unacceptably erode part of the well-functioning Green Wedge and I cannot see any clear justification at the present time for locating further housing within it.
18. My attention has been drawn to the Council's grant of permissions for developments at Sapcote and Glenfield. The circumstances of those cases are not the same as the one before me as the benefits of the former were considered to outweigh the identified harm. In the latter case, the Green Wedge in that instance did not perform a strong function as it does here and there was a clear need to provide additional housing within the PUA. Consequently, the conclusions within these other decisions are of little relevance to the circumstances in this appeal.
19. The proposal would result in significant harm to the character and appearance of the area and the valuable role played by the Green Wedge and thereby runs counter to CS policy CS16.
20. CS Policy CS2 seeks to improve design quality in the District. It says that all new development should respect distinctive local character and create places of high architectural and urban design quality.
21. In views from Enderby Road the dwellings would sit behind areas of green space and as such, would not reflect the predominant form of development whereby it faces the road. Moreover those spaces would be host to a sustainable drainage feature and storm water pumping station. In my view, the open space in front of the development would function as little more than a foreground buffer between Enderby Road and the dwellings beyond. It would not be an enticing open space that would encourage its use, particularly also given the proximity of a busy road on one side and vehicular accesses to some of the proposed dwellings on the other.
22. When all of this is combined with the unacceptable location for the proposed development, it would not accord with the principles of good urban design and I find it to be in conflict with CS policy CS2.
23. In addition to the above, I have also considered the matter of connectivity and note the appellant's argument that footpath link to the south onto Station Street could be secured by means of Grampian-style condition. The available Registered Title evidence indicates that a right of access would be possible in this location. I do not consider that occupiers of the proposed development would necessarily be put-off by having to walk through a commercial car park for what would be a very modest distance. Moreover, there are shops and services within a short walk of the site from this point. Accordingly, I do not find that the proposal would result in poor access to the main part of the settlement, although this does not lead me to a different overall conclusion on this second main issue.

Designated heritage asset

24. Whetstone Grange is a grade II listed building located a short distance from the south-western corner of the site. It dates from around 1800 and is an attractive building of substantial proportions with elevations displaying a combination of white stucco render and red brick below hipped slate roofs.
25. The variously dated Ordnance Survey Maps within the submitted Heritage Report⁴ clearly show the building occupying a location away from the main part of Whetstone in existence at the time.
26. Although there is now some industrial and other proximate development, Whetstone Grange notably stands out because of its greater height and elevational treatments. It has maintained a clear relationship with the rural landscape which can clearly be seen in views from the path along the embankment and at further distance, from Enderby Road. The sense of this is reinforced by the presence of the surrounding outbuildings of agricultural character. The enduring setting of the listed building relies substantially on the separation between it and the built-up area and this is a key function of the currently open site.
27. I do not therefore agree with the findings of the appellant's heritage evidence that the site makes only a minor contribution to the setting of the listed building. The proposed development would blur the current clear distinction between the built-up area and the rural landscape surrounding the listed building, resulting in a direct adverse effect on its setting. This would be exacerbated by the proximity of the proposed south-westernmost building to the boundary with Whetstone Grange's grounds. In my view, it is not enough to merely set out to screen and filter views as harm to the setting of a designated heritage asset goes beyond purely visual matters.
28. Consequently, the proposal would run counter to CS policy CS20 that amongst other things, seeks to avoid harm to the significance of historic buildings including their setting. Whilst the level of harm would not reach the high hurdle of substantial harm for the purposes of paragraph 133 of the National Planning Policy Framework (the Framework), it would result in serious harm that requires clear and convincing justification. Framework paragraph 134 says that where a development proposal would 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 scheme, including securing its optimum viable use.
29. In terms of its public benefits, the appeal proposal comprises 100% affordable dwellings, which would make a meaningful contribution to the provision of this type of housing in a District within which there is an accepted critical need. This carries substantial weight but in my view it would not be sufficient to outweigh the less than substantial harm to the setting of Whetstone Grange.

Living conditions

30. The Grange boarding kennels are located next to the appeal site's south-western boundary and therefore have the potential to generate an unacceptable level of noise and disturbance to future occupiers in some of the proposed dwellings. Amongst other things, saved LP policy C3 seeks to avoid

⁴ Appeal Statement on Heritage by Pegasus Group dated October 2017, reference GS P17-2360

this by deferring to the requirements of saved policy C2, which requires development to have a satisfactory relationship with nearby uses including noise considerations.

31. The Council questions the robustness of the appellant's noise evidence. However, at my site visit, I did not encounter any noise from the boarding kennels. That is not to say it would never occur but given the measures suggested by the appellant and the Council's suggested planning conditions, on balance, I am satisfied that matters of noise could be adequately addressed in the event that planning permission was granted. I do not therefore find any conflict with Saved LP policies C2 or C3.

Other Matters

32. The appellant refers to a permission granted in 1979 allowing for the storage of up to 100 caravans on part of the appeal site near to Station Street. There followed a further permission, granted on appeal⁵ for the siting of a mobile home on that part of the site.
33. The nature of caravan storage is that the number of units would vary in accordance with the comings and goings of their owners and I do not consider that the effects on the landscape from the storage of caravans on the southern part of the site can easily be equated with the level of harm that would result from a development of permanent character covering a much larger area.
34. Moreover, I have no substantive evidence to indicate that there is a significant probability that the caravan storage would recommence should this appeal be dismissed. I therefore give only limited weight to the appellant's stated fallback position.

Planning Balance and Conclusion

35. There would be satisfactory access to shops and services subject to a Grampian condition. I have also found that there would be no unacceptable effects by way of noise and disturbance although these are neutral matters in the overall planning balance. I have apportioned limited weight to the stated fallback position.
36. There would be very significant environmental harm to the area's character and appearance and to the function of the Green Wedge. In addition, the proposal would not represent an acceptable standard of design and I have found that there would be residual harm to the setting of a designated heritage asset. Furthermore, the proposal would harm the CS's strategic approach to the location of housing based on the principle of urban concentration. The social and economic benefits of new affordable housing would not outweigh any of these harms. The proposal would not accord with the development plan as a whole and would not be sustainable development. The appeal does not succeed.

Hayden Baugh-Jones

Inspector

⁵ T/APP/5300/A/82/01432/G6