



Appeal Decision

Site visit made on 19 March 2019

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 4th April 2019

Appeal Ref: APP/F2415/W/18/3218248

Land at Fleckney Road, Kibworth Beauchamp

- 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 John Littlejohn Designer Homes against the decision of Harborough District Council.
 - The application Ref 18/01079/OUT, dated 22 June 2018, was refused by notice dated 7 November 2018.
 - The development proposed is described as *"the erection of up to 22 dwellings with associated access and drainage infrastructure"*.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline with all matters reserved for future consideration except for the means of access. Drawings showing an indicative layout were submitted with the application, and I have had regard to these in determining this appeal.

Main Issue

3. The main issue is whether the proposal benefits from the 'presumption in favour of sustainable development' set out at Paragraph 11 d) of the National Planning Policy Framework ('the Framework').

Reasons

4. The appeal site is located in the countryside outside of the Limits to Development. Policy SD1 of the Kibworth Neighbourhood Plan (2018) states that new development shall be located within the Limits to Development unless there are special circumstances to justify its location in the countryside. In addition, Policies CS2 and CS17 of the Harborough District Core Strategy (2011) seek to restrict housing development in the countryside outside of the Limits to Development. The proposal would clearly be contrary to these policies.
5. It is common ground that the Council is currently able to demonstrate a 5 year supply of deliverable housing sites. However, my attention has been drawn to Paragraph 33 of the Framework, which states that local plans and spatial development strategies should be reviewed to assess whether they need

updating at least once every five years. It is argued that the Council's 2011 Core Strategy has not been updated during this time, and its policies are therefore 'out-of-date'. In this regard, it is contended that the proposal benefits from the 'tilted balance' set out at Paragraph 11 d) of the Framework.

6. However, I am not persuaded by that interpretation of the Framework. In this regard, I note that Paragraph 33 contains no explicit link to the 'tilted balance' set out in Paragraph 11 d). Moreover, Planning Practice Guidance (PPG) states that:

*"Policies age at different rates according to local circumstances and a plan does not become out-of-date automatically after 5 years. The review process is a method to ensure that a plan and the policies within remains effective. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Due weight should be given to relevant policies in existing plans according to their consistency with the National Planning Policy Framework. It will be up to the decision-maker to decide the weight to give to the policies."*¹

PPG is therefore clear that existing policies should not be considered out-of-date simply because a review has not yet been completed.

7. In any case, Paragraph 33 of the Framework delineates the need to 'review' existing policies, from any subsequent update to those policies. In this regard, the emerging Harborough Local Plan is currently being examined and is at a relatively advanced stage. In order to have reached that stage, the Council has presumably already reviewed its existing Core Strategy and determined that an update is necessary. It is therefore unclear that the requirement to review existing policies is in breach in this case.
8. No party has argued that reduced weight should be attached to either the Harborough District Core Strategy or Kibworth Neighbourhood Plan due to any lack of consistency with the Framework. Insofar as the policies cited above relate to the appeal proposal they are broadly in conformity with the Framework, which recognises the intrinsic character and beauty of the countryside.
9. Separately, it is asserted that the Council has acted inconsistently in refusing permission in this case when it had previously approved an application for housing to the north and east of the appeal site (Ref 16/00166/OUT). However, I have come to my own view on the appeal proposal, rather than relying on the approach the Council may have taken elsewhere.
10. For the above reasons, I conclude that the proposal does not benefit from the 'presumption in favour of sustainable development' set out at Paragraph 11 d) of the Framework.

Other Matters

11. My attention has been drawn to Policy GD2 of the emerging Harborough Local Plan. In its modified form, criterion 2 c) of that policy is supportive of the redevelopment or conversion of redundant/disused buildings adjoining the existing or committed built up areas. From the information before me, it is not clear whether there are unresolved objections to this policy. However, even if I

¹ Paragraph: 064 Reference ID: 61-064-20190315

were to attach significant weight to it, I am not persuaded that the appeal proposal would accord with criterion 2 c). In this regard, only a very small proportion of the site consists of redundant/disused buildings and the vast majority of it comprises open fields.

12. The appeal site adjoins a housing development on 2 sides, and a large property in generous grounds to the west. It is therefore relatively well contained by existing development and its visibility from the surrounding countryside is largely restricted to views from the south, including from along Fleckney Road.
13. The appeal site is located on the edge of Kibworth and is within walking distance of services and facilities within the settlement, including schools, local shops, and regular bus services to Leicester and Market Harborough. The appeal site is therefore in a relatively accessible location.

Overall Balance and Conclusion

14. The appeal site is located in the countryside outside of the Limits to Development for Kibworth. Policy SD1 of the Kibworth Neighbourhood Plan (2018), and Policies CS2 and CS17 of the Harborough District Core Strategy (2011) seek to restrict housing development outside of the Limits to Development. The proposal would clearly be contrary to those policies.
15. Set against this, the development would provide 22 new dwellings, 40% of which would be affordable. It would also be in a relatively accessible location and would generate economic benefits through the creation of employment and the purchasing of materials and furnishings. The planning obligation would also provide contributions towards community facilities, library facilities, health, education, and public open space. Moreover, the development would have only limited visibility from the surrounding countryside, would provide some modest ecological enhancements, and would be capable of delivering good design at reserved matter stage.
16. Overall, however, I do not consider that these benefits justify approving a development that conflicts with both the Harborough District Core Strategy and the Kibworth Neighbourhood Plan. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
17. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR