



Appeal Decision

Site visit made on 11 February 2019

by H Miles BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2019

Appeal Ref: APP/E2205/W/18/3213898

Land north of Farley Close, Farley Close, Woodchurch Road, Shadoxhurst TN26 1NB

- 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 Esquire Developments Ltd against the decision of Ashford Borough Council.
 - The application Ref 17/01888/AS, dated 18 December 2017, was refused by notice dated 29 June 2018.
 - The development proposed is the construction of 21 dwellings alongside associated parking, infrastructure, access and landscaping works on land north of Farley Close, Woodchurch Road, Shadoxhurst.
-

Decision

1. This appeal is dismissed.

Procedural Matters

2. During the course of this appeal, a new version of the National Planning Policy Framework (the 2018 Framework) has been published. The main parties had the opportunity to make comments on the bearing of this on the appeal. Whilst there have been further revisions contained in the new version published in February 2019 (the revised Framework), no changes have been made to the content directly relevant to the main issues of this appeal. Consequently, no prejudice would occur to any parties as a result of me taking the revised Framework into account in my assessment of the appeal's merits.
3. During the course of this appeal Ashford Borough Council formally adopted the Ashford Local Plan 2030, Adopted February 2019 (the Local Plan). This replaces policies in the 'Ashford Borough Local Plan June 2000' and the Local Development Framework Core Strategy Adopted July 2008 and the Local Development Framework Tenterden & Rural Sites Development Plan Document Adopted October 2010. Both main parties have had the opportunity to submit comments on the relevance of the adopted Local Plan to this case and I have taken any comments received into consideration.
4. Whilst not included in the Council's reasons for refusal I also sought the views of the main parties specifically in relation to policy HOU1 of the Local Plan which relates to affordable housing. I have taken account of the views expressed in my considerations below.

Main Issues

5. The main issues are;

- Whether or not the proposed development would make adequate provision for affordable housing,
- Whether the location would provide a suitable site for housing having particular regard to the effect on service provision,
- The effect of the proposed development on the character and appearance of the area,
- Whether the proposed development makes adequate provision for any additional need for green space, health care, libraries, schools, and public rights of way arising from the development.

Reasons

Affordable Housing

6. Policy HOU1 of the Local Plan requires that for this development not less than 40% of the total dwellings should be affordable housing. The planning obligation submitted to me would secure 7 of the proposed dwellings (approximately 33%) as affordable housing. The appellant has put forward circumstances which they consider to outweigh this policy and I address these below.
7. I understand that the level of affordable housing is in line with the previous development plan. However, these policies have now been replaced and I am required to make a decision on the basis of the development plan which is in place at the time of the decision, not at any other earlier stage.
8. I note that the Council had not refused the application on the basis of affordable housing provision, and that it raises no specific objections to the submitted planning obligation which secures 33% of the dwellings as affordable housing. Nevertheless, given the change in policy circumstances since the Council's submissions this does not persuade me to depart from this recently adopted policy.
9. I attach substantial weight to the current development plan policy, and in this case I am not persuaded that there are other considerations which would outweigh the adopted policy. As such, the proposed development would not make adequate provision for affordable housing and in this respect would be contrary to policy HOU1 of the Local Plan, the aims of which are set out above.

Suitability of the Site for Housing

10. This site lies within the countryside for the purposes of the local plan, although it is adjacent to the built-up area boundary of Shadoxhurst. Policy HOU5 states that residential development close to the built-up confines of Shadoxhurst will be acceptable provided it satisfies a number of criteria. The most relevant to this appeal is point a which states '*the scale of development proposed is proportionate to the size of the settlement and the level, type and quantity of day to day service provision currently available and commensurate with the ability of those services to absorb the level of development in combination with*

any planned allocations in this Local Plan and committed development in liaison with service providers'.

11. I note that Shadoxhurst has services including a pub, church, park, bus service and village hall, and that the nearest shop is at Stubbs Cross. It has also been put to me that services including power, water, drainage, phone signal and broadband would be harmed as a result of this development.
12. The recently adopted Local Plan recognises that this settlement is suitable for some growth and it is not for me as a S78 Inspector to re-examine or re-draft what is a recently adopted policy. Based on the evidence before me, I find that the existing service provision is suitable to meet day to day needs. I acknowledge that a number of sites which include residential development have been recently consented¹ (both prior to and after the decision was made on this planning application). Nevertheless, I am not presented with substantive evidence which persuades me that the level type and quantity of the existing services could not absorb the 21 dwellings proposed (in combination with planned allocations and committed development put to me).
13. Therefore, on this basis, I conclude that the proposed development would provide a suitable site for housing and in this respect, would not be contrary to the Policies of the Local Plan that I find to be most relevant to this main issue: SP2 (the strategic approach to housing delivery) and HOU5, the aims of which are set out above, of the Local Plan, nor to the relevant advice in the revised Framework.

Character and Appearance

14. Farley Close is one of a number of cul de sacs leading off the main road in the vicinity of the appeal site. Others include Park Farm Close, the development under construction at the site that appears to be called 'Chequers Green'² and a new development opposite Farley Close³. The area is characterised by secondary roads and cul de sacs leading from the traditional linear pattern of development along the main road. Farley Close has semi-detached and terraced dwellings although in the wider area, houses are generally detached.
15. The appeal proposals include a cul de sac extending from the end of the existing Farley Close. The dwellings proposed would be a mix of detached and semi-detached houses, a terrace of three properties and a group of 4 flats, which would have a similar appearance to a pair of semi-detached houses. As can be seen from my assessment of the area's character above the proposed development would match the existing pattern and form of development in the vicinity.
16. I note that the proposed housing would extend the line of built development further north than the traditional linear layout along Woodchurch Road and would result in the loss of the existing field. However, Farley Close is a residential secondary road leading off the main road, so this pattern of development is already apparent in this particular location. Nor would it extend so far beyond the boundary of Shadoxhurst as to be read as a suburb of Ashford.

¹ Including: 12/00418/AS, 14/00254/AS, 15/01496/AS, 16/01841/AS, 18/00483/AS, 18/00572/AS

² 16/01841/AS

³ 15/01496/AS

17. I note that the Council did not refuse the application on the grounds that it would have a harmful effect on the setting of a listed building or Conservation Area and I am not presented with substantive evidence which would lead me to conclude otherwise.
18. Evidence has been put to me in relation to the circumstances under which the nearby cul de sacs were permitted and it is said that the current scheme differs to those that have been previously permitted. Each appeal must be considered on its own merits. In any case, I have taken account of the existing development and development currently underway and my assessment on the character and appearance of the site is based on the current situation.
19. For the reasons above I conclude that there would not be a harmful effect on the character and appearance of the area and in this respect the development would not be contrary to the Policies of the Local Plan I find to be most relevant to this main issue: SP6 (promoting high quality design), HOU5 (residential windfall development in the countryside) and ENV3a (Landscape character and design) or the relevant advice in the revised Framework.

Provision for any additional need

20. A planning obligation has been submitted with this appeal and both main parties have submitted comments on its content. However, the Council have not formally withdrawn their reason for refusal in relation to this main issue.
21. The planning obligation includes mitigation in the form of contributions towards additional book stock and library services, extension work at Woodchurch Primary School, green space including outdoor sports, informal green space, children's and young person's play, strategic parks, and healthcare provision. In general, the mitigation measures proposed would provide for the additional need generated by the proposed development in these respects.
22. A contribution towards the upgrade of the public footpath is included. However I am not provided with detailed evidence to quantify the need that would be generated in this respect, nor how the scale of the contribution would be related to the proposed development. For these reasons, I afford this aspect of the planning obligation limited weight in my reasoning.
23. For the reasons above, I conclude that the proposed development would make adequate provision for any additional need for green space, health care, libraries and schools, and public rights of way arising from the development. As such, in these respects, the development would not be contrary to Policies COM1 (Meeting the communities needs) or COM2 (Recreation, Sport, Play and Open Spaces) of the Local Plan. Nor to the advice in the Public Green Spaces and Water Environment SPD 2012, KCC Guide to Development Contributions and the Provisions of Community Infrastructure, Kent County Council (KCC) March 2007, Developer Contributions/Planning Obligations Ashford Borough Council March 2001, or the relevant advice in the revised Framework.

Other Matters

24. I understand that the site was cleared prior to the submission of the planning application that is the subject of this appeal. Any harm to wildlife in this respect would be covered under other legislation and would not be determinative in this case. I am presented with evidence that the site has continued to be cut back and as such there would not be a reasonable likelihood of protected

species, in particular reptiles, being present. Therefore, on the basis of the information before me, I do not find harm in relation to biodiversity.

25. I have considered the social, economic and environmental benefits of the provision of the proposed 21 dwellings including 7 affordable homes. It has also been put to me that these units are deliverable, occupants would help to maintain local shops and services, sustainable drainage systems and landscaping would benefit biodiversity, open green space would be provided and that they would contribute to the Council's housing supply.
26. While these are important, they are not unique to this development or site. Additionally, the provision of affordable housing is an important aspect of good planning that is recognised in the Development Plan and the Framework. Therefore, these matters would not outweigh the harm identified above to the provision of affordable housing.
27. There is dispute as to whether the Council can demonstrate a 5 year housing land supply. However, in any event, the harm in relation to the inadequate provision of affordable housing would significantly and demonstrably outweigh the benefits of the proposed development as discussed above. Consequently, the appeal scheme is not sustainable development in the terms of the revised Framework, for which there is a presumption in favour of.
28. There is no dispute between the main parties that these dwellings would not be isolated in the terms of the Framework nor in relation to the effect of the proposed development relative to heritage assets, highways safety, living conditions, flooding, drainage or trees. I am not presented with substantive evidence which leads me to disagree with this position. Nevertheless, the absence of harm in these regards is a neutral factor that does not weigh in favour of the development.

Conclusions

29. Whilst I do not find harm in relation to the suitability of this site for the development proposed, the character and appearance of the area, the provision of the development for additional needs or any other matters, the lack of harm in these respects would not outweigh the harm to the provision of affordable housing as identified above.
30. For the reasons above, this appeal is dismissed.

H Miles

INSPECTOR