



Appeal Decision

Site visit made on 12 February 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2019

Appeal Ref: APP/F2415 /W/18/3216471

Land at Coopers Lane, Dunton Bassett LE17 5LH

- 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 Steve Louth (Richborough Estates Ltd) against the decision of Harborough District Council.
 - The application Ref 18/00826/OUT, dated 11 May 2018, was refused by notice dated 5 September 2018.
 - The development proposed was originally described as '*outline planning permission for residential development (Class C3) with associated access, landscaping, open space and drainage infrastructure at land off Coopers Lane, Dunton Bassett. All matters are reserved, save for access.*'
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The application was submitted in outline with all matters reserved except for access, and indicatively showed a scheme of up to 59 dwellings. The appellant subsequently submitted revised illustrative plans and requested that the appeal be considered on the basis of a scheme of up to 40 dwellings, which reflects a later proposal refused by the Council in January 2019.¹ It is only appropriate to take amended plans into account if no party would be disadvantaged. Having regard to the principles of *Wheatcroft*², it is necessary to consider whether the proposed changes would represent a substantial difference compared to the original application, and if so, whether granting permission subject to the amended plans would deprive those who should have been consulted of the opportunity of consultation.
3. The change from 59 to 40 dwellings would represent a reduction of around one third in the amount of housing proposed. Whilst it is a smaller quantum of development, it is a significant change, with the potential to affect consideration of the main issues. The appeal has been advertised to the public on the basis of the 59 unit scheme. Therefore, to determine the appeal as a 40 unit scheme could come as a surprise to interested parties, who would have justifiably thought they were commenting on the 59 unit scheme. Therefore, I have considered the appeal as the Council originally did, for up to 59 units.

¹ Council Ref 18/01818/OUT – determined 16 January 2019

² *Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37*

4. On 30 April 2019, the Council adopted the Harborough Local Plan 2011-2031 (the HLP), replacing in their entirety the Harborough Core Strategy 2006-2028 (November 2011) (the CS) and saved policies of the Harborough District Local Plan (April 2001) (the HDLP), against which the application was determined. The main parties have been given the opportunity to comment on this change to the development plan and its relevance to their respective cases. Accordingly, I have considered the appeal against the adopted development plan and given no weight to the superseded policies of the CS or HDLP.
5. On 19 February 2019, the Government published its Housing Delivery Test (HDT) results alongside the publication of an updated revised National Planning Policy Framework (The Framework). The revisions to the Framework do not materially alter the national policy approach in respect of the issues raised in the appeal and therefore the main parties have not been prejudiced by the updates to this document. References throughout this decision relate to the 2019 Framework.

Main Issue

6. Based on the evidence before me, I consider the main issue to be whether the development proposed would represent an appropriate location for housing, with particular reference to its scale and the effect of this on the settlement pattern of the village and the surrounding landscape character.

Reasons

Location and Scale

7. The appeal site lies to the northern side of Coopers Lane, adjacent to the village of Dunton Bassett. Policy SS1 of the HLP sets out the District's spatial strategy and settlement hierarchy. Dunton Bassett is identified as a Selected Rural Village (SRV) within the hierarchy.
8. In terms of location and scale, Policy GD2(2) of the HLP provides that, in addition to sites allocated in the HLP, development adjoining the existing or committed built up area of SRVs will be permitted, subject to a number of criteria. Criterion (a) requires that the development does not disproportionately exceed the settlement's minimum housing requirement in Policy H1, taking into account allocations, completions and commitments. Policy H1 sets out that Dunton Bassett will provide for a minimum of 40 dwellings. I am not advised of any existing completions or commitments in Dunton Bassett to be factored in. The proposal seeks up to 59 dwellings, which would exceed this minimum by some 47.5%.
9. Criterion (d) of Policy GD2 further requires that the scale of development, individually or cumulatively with existing and committed development, reflects the size of the settlement concerned and the level of service provision within that settlement. Therefore, proposals for additional housing in Dunton Bassett must be considered in the context of its ability to accommodate it.
10. I accept that a minimum of 40 dwellings are expected to be delivered under Policy H1, and that as no sites are allocated within the village under the HLP, it is very likely that some greenfield land would be required to deliver housing in the village. However, the housing requirement covers the whole plan period to 2031. The supporting text at paragraph 4.3.1 confirms the focus of Policy GD2 is to ensure that sites put forward for development are suitable and sustainable

in relation to the settlement concerned. Paragraph 4.3.2 adds that whilst it is important that the settlements identified in Policy GD2 are allowed to grow appropriately in order to maintain rural vitality, the policy also ensures that these rural communities retain their identity and distinctiveness, as reflected in a settlement's size, scale of service provision, form and character.

11. The addition of up to 59 dwellings would represent a large extension of the village in terms of scale given it was recorded as having 330 dwellings overall at the time of the 2011 census. Whilst it is identified as an SRV, services in the village are limited to a primary school, pub, village hall, church and two sports clubs. The introduction of up to 59 new dwellings through a single scheme, with these few services, would inevitably result in residents travelling daily to nearby towns for shopping, work, leisure and secondary or higher education. There is a bus service available from Coopers Lane, running Monday to Saturday between Leicester and Lutterworth, at a frequency of around 1 bus per hour from between 0547 and 2245 hours, which I find reasonable for a rural location. A school bus service to Lutterworth also exists. Bus passes would be provided for residents through the Section 106 agreement and would reduce reliance on the private motor car for journeys. The appellant's travel plan, however, puts bus use at just 1% and states that car or van travel would still account for some 89% of all journeys, with a reduction of only 5% proposed over 5 years.
12. In view of this and given the outlying position of the site at the edge of the village, with the adjacent onward road link of the A426 and the limited services available, I find it probable that future residents would rely to a large extent on travel by car to other towns and would have little reason to integrate into the existing village. This would conflict with the Framework which states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, and that housing should be located where it will enhance or maintain the vitality of rural communities.
13. Taking these considerations together, I find that that the delivery of almost one half more than the village's identified housing requirement in a single development would be disproportionate in scale and would reflect neither the size of the existing settlement, nor its level of service provision. Together with a lack of social integration between the development and the existing village, the proposal would therefore harm the character of the village and would conflict with the requirements of Policy GD2 of the HLP.

Landscape character

14. The site comprises two agricultural fields to the northern side of Coopers Lane. Linear development stretches along the length of Coopers Lane to the junction with the A426 road a short distance to the east. A farmyard with several buildings stands immediately to the west of the site and represents the sole built form to this side of Coopers Lane until it reaches the A426. I saw the fields were laid to grass with low, maintained hedgerows to the field boundaries, and some evidence of ridge and furrow earthworks. A public footpath (Y39) runs between the farm and appeal site before crossing the northern part of the land owned by the appellant.
15. Policy GD5 of the HLP requires that development should be located and designed in such a way that it is sensitive to its landscape setting and

landscape character area. Policy GD2(2)(e) also requires that it is physically and visually connected to and respects the form and character of the existing settlement and landscape. The appeal site is located within the Lutterworth Lowlands Landscape Character Area (the LCA) which is described in the Harborough District Landscape Character Assessment (September 2007) as '*an area of predominantly open, gently rolling pasture, with regular, medium sized fields and an absence of significant woodland.*' The LCA is assessed as having a '*medium to high*' capacity for change, due to the changing nature of the landscape from recent developments to the fringes of settlements. However, the Assessment qualifies that '*the smaller villages of the area have much lower capacity and would need to be considered on a case by case basis.*'

16. The appellant's Landscape and Visual Impact Assessment (LVIA) assesses the site as typical of the LCA, and having viewed the site I would agree, given its open, pastoral fields, the gently rising land beyond to the north and the presence of small areas of woodland framing some views. The visibility of the site is most prominent from Coopers Lane and footpath Y39, with longer views increasingly filtered by intervening vegetation or topography. There are also longer views from the A426 road on approach from the north, where the site is seen against the backdrop of the development on Coopers Lane..
17. The site is subject to the influence of the built development on Coopers Lane. However, I do not share the view of the appellant's LVIA that the site is physically and visually separated from the wider rural agricultural landscape. From my observations, the site is open and forms a continuous part of the wider countryside extending primarily to the north and west. The boundary vegetation is generally low in height and views over the site from Coopers Lane take in the land beyond the site. In reverse views, development on Coopers Lane is visible to its elevated position and it marks a sharp edge to the village with an immediate and somewhat crude transition to the open countryside, which includes the appeal site. In my view, the site is influenced by this setting and maintains a strong rural influence, distinct from the main village core or the road-dominated development around the A426 junction.
18. The dwellings on Coopers Lane and around the A426 junction have extended development away from the village core in a linear fashion, and it is common ground that this pattern of development is not sympathetic to the more nucleated historic core of the village. The Council's landscape consultant accepts that the proposal provides an opportunity to create a high quality development which relates more sympathetically to the main core, though this advice is caveated by concerns over the overall scale of development, the degree of mitigatory planting proposed, and the degree of effect on the landscape for certain receptors and from certain viewpoints.
19. The LVIA assessed the visual effects from a number of selected viewpoints and concluded that the visual receptors from each viewpoint would experience some visual impact ranging from temporary minor adverse to temporary moderate-major adverse during the construction phase, with potential for landscape planting which would reduce the visual impact to between minor adverse and moderate-minor adverse after 15 years. In terms of effect on the landscape character, the LVIA concluded that the magnitude of change would be medium during construction and at completion, with a permanent moderate adverse effect at completion reducing to a permanent minor adverse effect at Year 15. The Council's landscape consultant found the effect on landscape

character to be greater, regarding it as major-moderate at completion and Year 5, and moderate adverse at Year 15.

20. The indicative plans show a proposed layout in a series of clusters and relatively low density, allowing for extensive areas of planting and open space. I acknowledge that the site makes use of the existing field boundaries and the boundary planting would, in time, create a softer transition between the built-up area and the countryside than exists at present along Coopers Lane. However, the proposal would still be a significant and conspicuous extension of the built form into the open countryside where there presently is none and which would stand starkly by itself to the northern side of Coopers Lane. The built form and resulting loss of open land would be readily seen from either end of Coopers Lane, from the public footpaths and from higher ground to the north of the site. This loss of open land would have an inherent effect on the character of the site for residential receptors on Coopers Lane whose outlook over open fields would be irrevocably changed. This would also be the case for recreational users of the public footpath as they travel out of the village immediately past the development, and on approach to it from the A426 side where it would be prominent given the rising level of the land. Even allowing for a sympathetic layout and mitigatory landscaping, these receptors would experience a large, suburban form of development at close range which would be at odds with the rural surrounds.
21. Consequently, the intrinsic loss of open countryside, together with the exposed and conspicuous position of the development would have a significant adverse impact upon the existing pattern of development and would undermine the rural character of the landscape. It would not reflect the modest scale of the village or its surrounding rural character. Whilst these effects would be localised in terms of the wider LCA, they would nevertheless be harmful.
22. The site has no specific landscape, ecological or heritage designation which would indicate a valued landscape for the purposes of paragraph 170 of the Framework. However, the Framework also recognises the intrinsic character and beauty of the countryside and requires developments to function well and add to the overall quality of the area, to be sympathetic to local character and history, including the surrounding built environment and landscape setting, and to establish or maintain a strong sense of place. In that respect, the site and its relationship to its immediate surroundings are influential upon the character and setting of Dunton Bassett, which would be harmed by the proposal and would result in conflict with the Framework.
23. Concluding on this main issue, I find that the proposal would not be consistent with the objectives of policies relating to the location of housing, as due to its scale, location and form it would cause harm to the landscape character and appearance of the area, in conflict with Policies GD2 and GD5 of the HLP. There would also be conflict with Policy GD8, which amongst other things requires development to be inspired by, respect and enhance both the local character and distinctiveness of the settlement concerned, and to respect the context and characteristics of the individual site, street scene and the wider local environment to ensure that it is integrated as far as possible into the existing built form. As already set out above, there would be associated conflict with the Framework.

Other Matters

Highway Safety

24. The matter of access falls for consideration at this stage and particular concern has been raised by interested parties in respect of highway safety, namely levels of congestion on Coopers Lane due to queues at the A426 signalled junction and hazards for residents in accessing or leaving their properties, which would be worsened by additional traffic from the development.
25. The application is supported by a comprehensive Transport Assessment (TA) which has been scrutinised by Leicestershire County Council (LCC) as the Local Highway Authority. The TA was undertaken on the basis of a 65 dwelling scheme and thus assessed impacts greater than would be the case for the scheme before me. The modelling showed that, at morning and evening peak times, the A426 intersection would operate over capacity, and LCC indicated that its operation would worsen following the development, but that the expected trip rates were overestimated and that, in practice, the effect of the development would not be material. Additionally, no objection is raised by LCC to the technical layout of the proposed access.
26. I acknowledge the strong concerns of residents in these respects. However, I have taken into consideration the detailed scrutiny given to the technical analysis of the appellant by LCC. I am also mindful of the Framework, which advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Given the conclusions of the Council and LCC, I am satisfied that impacts of the proposal would not be severe in this case, and therefore I am not led to a different conclusion from the Council in this matter.

Heritage Assets

27. The Council considered the effect of the proposal on the settings of several nearby listed buildings, including the Parish Church of All Saints in Dunton Bassett (Grade II*), Broomhills Farmhouse (Grade II), milepost (Grade II) and a Scheduled Ancient Monument (a moated site with fishpond). I have had due regard to the statutory duty³ to pay special attention to the desirability of preserving the setting of a listed building. In none of these cases did the Council identify harm to the settings of these designated heritage assets, and from all I have seen and read, I have no reason to reach different conclusions.

Reserved Matters

28. The matters of layout, landscaping, appearance and scale are reserved for future consideration. As such, they are not relevant to my considerations, beyond that I concur with the Council's views that the site is capable of delivering an appropriate density of development and that, in principle, there are sufficient space and separation distances to existing development to create satisfactory levels of amenity for existing and prospective occupants.

³ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Planning Obligations

29. The Section 106 agreement makes provision for affordable housing and on-site open space, along with its maintenance, and bus passes for future residents. It also provides for financial contributions in relation to: off-site public open space; community facilities; libraries; education; healthcare; bus stop improvements; travel pack and monitoring of obligations and the Travel Plan. Having considered the evidence provided in support of the obligations sought, including the concerns raised regarding the capacity of Dunton Bassett Primary School to expand, I am satisfied that each sought obligation meets the three tests set out in Paragraph 56 of the Framework for planning obligations, which reflect those set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations (2010). Further, I am satisfied that the sought contributions comply with CIL Regulation 123, where applicable. As a result, I have taken the completed agreement into account.

Other relevant matters

30. The Council did not refuse permission in respect of other matters including ecology, trees, flooding, drainage and air quality, subject in certain cases to recommended conditions. I have also had regard to the comments of interested parties on these and other matters. However, the evidence before me does not lead me to findings of harm in any of these respects. The absence of harm is a neutral factor weighing neither for nor against the development in the planning balance.

Planning Balance

31. The proposal would deliver up to 59 residential units, up to 19 of which would be affordable units. The Council's stated position is that it can demonstrate a five year supply of deliverable housing sites, with its supply given as 6.94 years as of 15 August 2018. This is not specifically challenged by the appellant, and I have therefore no reason to depart from the Council's housing position, which derives from an up-to-date evidence base informing the now adopted HLP. Moreover, the HDT results of February 2019 show housing delivery in the District over the past three years to have exceeded the requirement by 50%.
32. In light of the Council's housing position, the delivery of housing through this proposal would not be essential to meet housing delivery targets, but I accept that the proposal would still assist in meeting those targets, whilst the provision of affordable housing would be a further benefit. Accordingly, I afford considerable weight overall to the benefits of market and affordable housing. There would also be economic benefits associated with the construction of the dwellings and from use of local services by future occupants, though given the limited number of services, and the temporary nature of construction works, such benefits would be limited overall. Environmentally, there would be minor benefits from the additional perimeter planting, provision of a play area and connection to the existing public footpath which would increase outdoor recreation.
33. Set against these benefits, I have found the proposal would cause significant harm to the character and appearance of the area through the intrinsic loss of open countryside, the disproportionate scale and adverse landscape impact of the development and the lack of integration of the development both physically and socially with the existing village, resulting in conflict with the development

plan to which I give significant weight. The loss of agricultural land and the reliance of future residents principally on the private car for transport would carry further minor weight against the proposal.

34. I am satisfied that the totality of harm identified outweighs the cumulative benefits of the proposed new residential development. Consequently, the proposal would not amount to sustainable development when considered against the development plan and the Framework as a whole.
35. Planning law⁴ states that decisions must be made in accordance with the development plan unless material considerations indicate otherwise. I conclude that the identified harm arising from the proposal results in conflict with the development plan that is not outweighed by the other material considerations in this case, including the contribution to housing supply and the associated benefits previously identified.

Conclusion

36. For these reasons, and having regard to all relevant matters raised, the appeal is dismissed.

K Savage

INSPECTOR

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 1990 and Section 70(2) of the Town and Country Planning Act 1990.