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## Appeal Decision

Site visit made on 8 December 2015

**by Richard Schofield BA(Hons) MA MRTPI**

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

**Decision date: 11 December 2015**

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**Appeal Ref: APP/F2415/W/15/3129344**

**Land South of Crowfoot Way, Broughton Astley**

- 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 I P Crane against the decision of Harborough District Council.
  - The application Ref 14/01388/OUT, dated 7 October 2014, was refused by notice dated 8 January 2015.
  - The development proposed is described as 'revision to planning consents 10/01579/OUT and 12/01633/RM for 50 dwellings including a scout hall, land for school use, allotments, public open space, access and landscaping'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was made in outline with all matters reserved other than access. I have determined the appeal on this basis.

### Main Issues

3. The main issues are:
  - whether the appeal scheme makes adequate provision for any impacts upon local infrastructure and for affordable housing; and
  - whether the appeal site is an appropriate location for the development proposed, having regard to local policy for the delivery of housing.

### Reasons

#### *Local infrastructure and affordable housing*

4. It is not disputed that the appeal scheme, in order to comply with the requirements of Harborough District Core Strategy (the Core Strategy) policies CS3, CS12 and CS16 and Broughton Astley Neighbourhood Plan (the NP) policies H2 and CI1, would need to make contributions towards a range of local infrastructure and to affordable housing provision.
5. I have been provided with detailed, costed information in relation to the need for contributions for policing, libraries, education, public open space, healthcare facilities and sustainable transport to mitigate the impacts that would arise from the appeal proposal. On the basis of the information before me, I have no reason to consider that such contributions would fail to meet the tests of

necessity, relevance and fairness as set out in section 122 of the Community Infrastructure Levy Regulations (as amended) 2010. Nor are any of these requirements disputed by the appellant.

6. However, there is no means of securing these contributions or the requisite amount of affordable housing, which is suggested as a benefit of the scheme, before me. As such, I cannot be certain that the appeal scheme would mitigate its impacts upon local infrastructure or provide the suggested affordable housing benefits. It may be that the latter could be secured by condition, but neither party has indicated that they would agree to such a condition and the other contributions would remain outstanding.
7. As such, I conclude that the appeal scheme fails to make adequate provision for any impacts upon local infrastructure and for affordable housing. It conflicts, therefore, with Core Strategy policies CS3, CS12 and CS16 and NP policies H2 and CI1. These seek, among other things, to ensure that new development delivers necessary supporting infrastructure and affordable housing.

#### *Whether an appropriate location*

8. The appeal scheme was refused on the grounds of its alleged conflict with policy H1 of the NP. This policy allocates two sites for residential development. The appeal site is not one of them and the District Council states that permitting the appeal scheme would result in over delivery of housing in Broughton Astley.
9. However, the NP is clear that Broughton Astley is required to deliver '*at least 400 new homes between 2006 and 2028*<sup>1</sup>'. Thus, it acknowledges that the allocation of two sites (and the identified reserve) does not mean a cap on additional development at the village. Even if this were not the case, however, it is not disputed that the District Council is unable to demonstrate a five-year supply of deliverable housing sites. This being so, paragraph 49 of the National Planning Policy Framework, which is a significant material consideration, states that relevant policies for the supply of housing should be regarded as being out of date. This necessarily reduces the weight that can be given to policies, such as H1, that seek to constrain residential development within defined limits.
10. In addition, and crucially, the appeal site already has planning permission for 50 dwellings. There is no dispute that this permission has been implemented. As such, the principle of development of 50 dwellings on the appeal site, which is what is currently being sought, has clearly been established.
11. Nonetheless, the District Council contends that the implemented planning permission, which has not been built out, is not a realistic fallback for the appellant and will not be completed if the appeal is dismissed. Thus, the appeal proposal, if allowed, would amount to new development in the countryside.
12. I am mindful that both parties acknowledge a lack of developer interest in the site, with the extant permission. In addition, the District Council has cited legal advice that it has received. An excerpt from this advice is quoted, which states that, '*whether or not certain works have been undertaken within the site to 'make a start' is not significant*'. However, this advice is not before me and

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<sup>1</sup> Section 1.3

without the full context I cannot be certain about the issue, specifically, to which this comment refers. Even so, in my judgment, the matter of the works *is* significant.

13. The appellant's appeal statement is emphatic that development of the site will be continued regardless of whether the appeal is allowed. No substantive evidence has been presented by the District Council to suggest that the implemented scheme is either unviable or that the appellant is not in a position to continue build out. As such, I consider that the fallback scheme is a realistic alternative proposition for the appellant. Thus, it is not clear what harm would arise from the grant of a subsequent outline permission for the same number of dwellings on the same site.
14. My attention was drawn to a recent appeal decision<sup>2</sup> by the Secretary of State (SoS) for a site adjacent to the appeal site. In dismissing the appeal the SoS attached '*very substantial negative weight*' to the appeal proposal's conflict with the NP. However, that case differs markedly from that before me. It was a speculative application for 111 dwellings on a site that appears to have already been rejected as a potential allocation in the NP. In contrast, the appeal site already has an extant permission on it and was not considered through the NP process as it was regarded as a commitment. Thus, I do not consider that the SoS decision sets a precedent insofar as the appeal site is concerned.
15. The decision notice makes reference to the site's 'relatively inaccessible location'. It goes on to state, however, that this is mitigated by the SoS's findings in the decision referred to above. It is reasonable to consider, therefore, that this matter does not form part of the reason for refusal. Even if this were not the case, the fallback position would have the same alleged locational shortcomings and so this factor does not weigh significantly against the appeal scheme.
16. The appeal proposal would conflict with the NP, insofar as it is not one of the sites identified for housing development in policy H1. Nonetheless, beyond this 'in principle' conflict it is not clear what harms would arise when considered in the context of the significant number of material considerations that weigh in favour of the scheme. I address these below.
17. First, the site already has planning permission for 50 dwellings and there is no substantive evidence to suggest that this permission would not be built out if the appeal were dismissed. Second, the extant permission was in place during the NP making process and there has, thus, always been an expectation that there would be a development of 50 dwellings on the appeal site, adding to the supply of housing in the village. Any locational harms arising from the appeal scheme would equal to those that may arise as a result of the permitted scheme. Third, the District Council is unable to demonstrate a five-year supply of deliverable housing sites, which necessarily reduces the weight to be given to policies, such as H1, which seek to constrain the supply of housing. In this context I am also mindful of Broughton Astley's role as a Key Centre in the Core Strategy and the NP's recognition that the allocated sites do not constitute a cap on residential development.

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<sup>2</sup> 2183653

18. I conclude, therefore, that these material considerations, to which I afford significant weight, outweigh the appeal proposal's conflict with the NP and that, having regard to local policy for the delivery of housing, the appeal site is an appropriate location for the development proposed.

**Conclusion**

19. I have found that, having regard to local policy for the delivery of housing, the appeal site is an appropriate location for the development proposed. I am also mindful of the District's lack of a five-year supply of deliverable housing sites. Nonetheless, the appeal proposal would clearly give rise to a number of impacts upon local infrastructure. I have found that harm would arise from the lack of any means of securing mitigation of these impacts. I consider that this harm clearly and demonstrably outweighs the site's appropriateness as a location for residential development. As such the appeal proposal would not be a sustainable form of development and for the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

*Richard Schofield*

INSPECTOR

Richborough Estates