



Appeal Decision

Hearing Held on 9 October 2019

Site visit made on 9 October 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/N1215/W/19/3227814

Land South of Churchfoot Lane, Hazelbury Bryan, Dorset DT10 2DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr John Romans against North Dorset District Council (now Dorset Council).
 - The application Ref 2/2018/0462/OUT was dated 28 March 2018.
 - The development proposed is described as: Outline Planning Application for the residential development of up to 15 dwellings, public open space, landscaping and associated works with access from Churchfoot Lane (all other matters reserved).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal results from the Council's failure to determine the planning application within the statutory period. Although there is no formal decision from the Council it has considered the proposals and indicated that had it been in a position to determine the application it would have refused permission and has set out the reasons for this. These are the basis for the main issues of this decision which were confirmed at the Hearing.
3. On 1st April 2019 North Dorset District Council was replaced by Dorset Council, a unitary authority. The planning policies listed in the refusal notice remain until such time as they are replaced by the unitary authority.
4. The appeal seeks outline permission with all matters reserved except for access. In so far as the submitted plans and drawings show details of matters other than the access, I have treated those as being purely illustrative.
5. As confirmed at the Hearing, I have amended the description of development as written on the Application Form to show that access is off Churchfoot Lane and not 'Westleaze'.
6. It has been confirmed by both parties in the Statement of Common Ground that the reason for refusal (No 3) within the Council Statement of Case is withdrawn following the issuing of an updated Ecological Assessment agreed with the County Ecologist. A relevant condition has been recommended by the

Council in this regard if the appeal is allowed. Therefore, I have not pursued this matter further as it is not an issue in dispute.

Main Issues

7. The main issues are:

- The principle of the development in this location, outside of the settlement boundary of Hazelbury Bryan.
- The effect on the character and appearance of the area.
- Whether the development provides for sufficient affordable housing and any necessary mitigation via a secure mechanism such as a legal agreement.

Reasons

Location of Development

8. The proposed site for the residential development of up to 15 dwellings is within a field on the eastern edge of the hamlet of Wonston, which is part of the larger settlement of Hazelbury Bryan. To the west of the site is a relatively recent residential development known as Woodlands which is part of Wonston and within a designated settlement boundary. However, the site itself is outside of the settlement boundary for Wonston/Hazelbury Bryan, although is immediately adjacent to the boundary of this designated area. Being outside of the settlement boundary, in policy terms, the site is considered to be in the countryside, although is not isolated being adjacent to existing residential areas.
9. Within Policies 2 and 20 of the North Dorset Local Plan (NDLP) Hazelbury Bryan is identified as one of the larger villages which, outside of the four main towns and Stalbridge, will be a focus for future growth. However, this does not apply to sites outside the defined settlement boundary, where new development will be strictly controlled, unless it is required to enable essential rural needs to be met. The appeal proposal does not fall within the housing development types listed in the supporting text to policy 20 for housing appropriate in the countryside to meet rural housing needs. Also, this is not the type of development where there is a particular overriding need for it to be set in a countryside location. Other than a general housing need (discussed later in the planning balance) there is no substantive evidence why this development of 15 dwellings has to be in this countryside location.
10. Hazelbury Bryan also has an adopted Neighbourhood Plan (November 2018). Policy HB13 allows for infill development within the settlement boundaries of Hazelbury Bryan. However, the site is not within the settlement boundary and it would not be a form of infill development. Furthermore, policy HB15 sets out the residential development strategy for meeting housing needs for the village, but this does not include the need to develop this site to meet its target of 56 new dwellings. This policy also states that the release of unallocated greenfield sites outside the settlement boundary should be limited to rural exception affordable housing sites. As explained later in this Decision, this proposal is not regarded as a rural exception site.
11. It is acknowledged that the site abuts part of the Hazelbury Bryan settlement boundaries, being the area known as Wonston. However, I observed that there

is very little within this hamlet in terms of shops and services. From the evidence before me, there is very limited public transport links to Wonston either.

12. The wider village of Hazelbury Bryan has some services such as a shop, public house, Church and large playing fields, but these are mainly towards the northern end of this overall settlement. To reach these services from the proposed development a pedestrian, for example, would need to walk a significant distance along rural roads without continuous footways or street lighting. Future residents would likely need to travel through Wonston, then follow Partway Lane before getting to the northern section of Hazelbury Bryan, to reach the shop or the other facilities in this part of the village.
13. Whilst there may have been no objection from the Highway Authority, I do not consider such distances as conducive to frequent pedestrian trips, especially in the dark and/or in inclement weather. The same is true to an extent for cycling, where narrow unlit roads may be a deterrent to some. I note that there has been no recorded accidents or incidents, but that may be that people avoid walking or cycling these roads at night. Also, the proposed development would increase the number of people that would use these rural roads.
14. As discussed in the Hearing, there are public right of way routes, but these are not made-up paths and would not be lit. Even if some were to be improved I do not regard it likely that they would be used frequently by future occupiers of the proposed houses in all weathers or in the evenings/night when it is dark, for example.
15. Though Wonston and the neighbouring street Woodlands is within a settlement boundary, this site is to the far side of this area of the village away from the parts of Hazelbury Bryan where the shop and services exist. It would likely take longer to travel from this proposed development than from the existing dwellings within Wonston's settlement boundary.
16. There is a primary school and a Church to the east of the site, but this can only be accessed by a walk along Churchfoot Lane, which is a narrow road which have high hedges along most of the sides, which from my observations on site does have quite regular passing traffic. The lack of width of carriageway and that there is no lighting or footways for most of its route makes walking or even cycling a less attractive option, in my opinion.
17. On this basis, whilst I have regard to the fact that the site is adjacent to a settlement boundary, its position is such that it is an unsustainable location. The site has less accessibility than the existing residential areas of Hazelbury Bryan which are within a settlement boundary, including Wonston. The proposed improvements to Churchfoot Lane would not overcome this issue.
18. Given the above, I find that the proposed development would lead to an over reliance on the use of the private car, and as a consequence would not constitute sustainable development. Therefore, the location of the site adjacent to a settlement boundary does not overcome the policy conflict of developing this green-field site outside of the settlement boundary.
19. Accordingly, the proposal would be contrary to Policies 2 and 20 of the NDLP. These policies seek to promote sustainable development and locate new development in accordance with a spatial strategy. In this case the

development is outside of a defined settlement boundary. Furthermore, the proposals are contrary to Policies HB13 and HB 15 of the made Hazelbury Bryan Neighbourhood Plan 2018 to 2031, which seeks to limit development to infill within settlement boundaries and has set out how it seeks to meet the village's housing needs, which does not include development of the appeal site for 15 houses.

20. Policy 6 has been included in the Council's reason for refusal relating to the principle of development. However, this policy concerns housing distribution and it has not been made clear as to how the proposal conflicts with this policy. Considering the content of the policy, I do not find the proposal clearly conflicts with Policy 6 of the NDLP.
21. The appellant has raised the issue of the Council's lack of sufficient housing land supply. The appellant states that the Council only has less than three years housing land supply and so the policies above would be regarded as out of date and the conflict with these policies would be given less weight. This issue is considered in full in the 'Planning Balance' section later in this decision.

Character and Appearance

22. The site is to the south of Churchfoot Lane, which is a relatively narrow rural road. Other than a small cemetery adjacent to the northeast corner of the site, there is primarily agricultural land to the east and south. There is also mainly open agricultural land to the north, to the opposite side of Churchfoot Lane. However, to the west of the site is the edge of Wonston and the relatively recent development known as Woodlands.
23. The site is essentially an open field which slopes downhill to the south. There are hedgerow boundaries to all sides, with a field access onto Churchfoot Lane. The site is within an area of the Rolling Vales Landscape Character Type (LCT). The topography of this field would fit with the 'rolling vales' landscape description, although it is not specifically designated as a high value landscape.
24. Policy HB4 (Key Rural Views) of the Hazelbury Bryan Neighbourhood Plan (HBNP) states that development that would significantly intrude and impact on the enjoyment of key rural views is to be resisted. The site is in the viewing arc of View 1 which seeks to protect the view from the elevated position towards Wonston. However, as viewed on site, the existing intervening landscaping and also the sloping topography of the site mean that the proposed development would have little impact on this key view.
25. However, the development of up to 15 dwellings would clearly have a significant change in the character of the site, with a substantial urbanising effect. The development would have the effect of extending the built form of Wonston substantially to the west, from the boundary with Woodlands towards the small cemetery. Whilst the development would be seen from some views as being against the backdrop of the existing houses at Wonston, it would also substantially encroach the extent of this settlement into what is agricultural land, which currently is a good example of the 'rolling vale' character of the area.
26. Whilst the full extent of the development may not be fully apparent from Churchfoot Lane, the housing would be clearly evident from other public viewpoints, such as from the south. From such views the housing would be

particularly prominent as it would cover a sloping site. Also, from the proposed access on Churchfoot Lane the housing would also be prominent as will its urbanising effect on what is currently an open field.

27. There would need to be both some removal and translocation of hedgerows as part of the development. Future additional planting and maintenance of the hedgerows that are to remain would be beneficial. However, any loss of a section fronting Churchfoot Lane and also the translocation of other hedgerows from their current established position, in this prominent location where the existing hedgerows are such an important and characteristic feature of this rural landscape, would have an overall adverse effect to these important rural features of the landscape.
28. Whilst I acknowledge the conclusions of the submitted Landscape and Visual Impact Assessment and that there was not an objection from the Council Landscape Officer, it is my opinion that the proposal would adversely impact upon the landscape in developing this site for housing, with localised views and more long range views possible which would be affected. Overall, I conclude that the proposal would have a harmful effect on the character and appearance of the area, and that the proposal is contrary to policies HB1 and HB5 of the made Hazelbury Bryan Neighbourhood Plan 2018 to 2031, and Policies 4 and 24 of the adopted North Dorset Local Plan (2016). These policies seek to require development to enhance local landscape character, including key characteristics such as hedgerows, amongst other things.
29. However, I do not find conflict with policy HB4 as I do not regard the proposal as having an adverse impact on an important view. Also, policy HB13 particularly relates to restricting development within defined gaps, but from the information I have the site is not within such a gap. Furthermore, I have not found conflict with policy No 20 of the Local Plan for this issue, as these relate more to the principle of development in the countryside away from existing settlements, rather than any affect to the character and appearance of the area.

Affordable Housing and other contributions

30. At the time of both the determination of the planning application and the Hearing there was no signed legal agreement. However, since the Hearing this has been submitted with the agreement dated 17 October 2019 and signed by both main parties.
31. Although there has been evidence submitted that there is an intention and willingness that the proposal would provide 100% affordable housing, this cannot be confirmed legally through the agreement. The legal agreement states that the development would include 40% affordable housing at a minimum and this is the level which I have considered. As such, this has not been considered as a rural exception site.
32. Furthermore, the legal agreement includes the provision of a contribution towards, for example, education needs, 'Community Leisure and Indoor Sports Facilities', 'Destination Play Facilities' and their maintenance, 'formal and informal outdoor sports facilities' contribution and maintenance, a library contribution, an allotment contribution, and a highways and sustainable transport contribution. Furthermore, there is included details of the provision for open space, such as the on-site proposed local area of play (LAP).

33. The contributions would be necessary to make the development acceptable in planning terms, being directly related to the development and fairly and reasonably related in scale and kind to the development, in accordance with the CIL Regulations and the National Planning Policy Framework.
34. As I have a signed legal agreement before me which commits to these contributions, open space provision and 40% affordable housing, then I regard the proposal would, in this regard, be in accordance with policies HB14 and HB16 of the Hazelbury Bryan Neighbourhood Plan 2018 to 2031, and Policies 8, 13, 14, and 15 of the adopted North Dorset Local Plan (2016). These policies require, amongst other things, the provision of affordable housing and enhanced community facilities.

Planning Balance

35. As is explained from the above sections, I have found that the proposed development would not accord with both Local Plan and Neighbourhood Plan policies. I have concluded that the proposal would be contrary to the housing strategy as set out in these development plan policies, being that the proposal would be development outside of the designated settlement boundaries, with no overriding justification for this development to need to be in this countryside location. Furthermore, the proposal would be harmful to the landscape by building houses on this field in a prominent location, with the effect of encroaching the urban edge of the Wonston boundary into the countryside.
36. I therefore also find that the proposal would be contrary to the National Planning Policy Framework which requires 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 (paragraph 103) and seeking the conservation and enhancement of the natural environment, including landscapes (paragraph 20).
37. However, the proposal would provide for at least 40% affordable housing together with other contributions which would benefit the local community. The 15 dwellings would also make a contribution to the overall local housing need (including for families potentially), as part of an efficient use of the site. However, as explained above, the location of these dwellings (including the affordable units) is not considered as appropriate as this is an unsustainable location for such a development. Therefore, this is not a location which I would regard as suitable for new housing and this undermines any such benefit that would be derived from the new housing proposed.
38. There would also be some improvements to infrastructure such as the highway widening and footpaths. However, this would largely be a benefit for those using the proposed access for the development. There would, though, be some benefit though for the general public using Churchfoot Lane through the additional footpaths for example.
39. Furthermore, in terms of benefits, the proposal would bring economic benefits from both the construction process and from new residents within the village, who would potentially support the local businesses and facilities like the school. Ecology enhancements and energy efficient dwellings are also acknowledged as benefits.

40. As previously mentioned, the Council accepts that it cannot identify a 5-year supply of housing land. This is an important aspect of the planning balance as footnote 7 of the National Planning Policy Framework (the Framework) confirms that the relevant housing policies of the development plan should be considered out of date in this circumstance. Paragraph 11 d) of the Framework states that where the relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole or where policies in the Framework that protect areas/assets of importance provide a clear reason for refusing permission. Footnote 6 of the Framework defines those areas/assets, none of which apply here.
41. There is, however, also a Neighbourhood Plan in place for Hazelbury Bryan. I have found that the proposals are not in accordance with some of the policies in this Plan. Paragraph 14 of the Framework states that where the tilted balance applies to applications involving the provision of housing, "the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits". However, this is on the basis that the Local Planning Authority has at least a three year supply of deliverable housing sites. The appellant states that the Council can only demonstrate substantially less than 3 years of housing land supply, and so paragraph 14 of the Framework is not in effect as a result. The Council disputes this and states that whilst it acknowledges it has less than the 5 years of housing land supply, it has more than 3 years. Evidence has been submitted by both parties regarding this matter, but there was no agreement at the Hearing.
42. Overall, I fully acknowledge the benefits the proposed housing would bring in this planning balance, particularly the provision of affordable housing where there has been a lack of delivery in recent years and that there is a local need. However, I have also concluded that there would be harm as a result of the development. The inappropriate location for the houses proposed, with the lack of accessible services or public transport links, together with the adverse visual impact to the rural character of the area, are such that the harm would be substantial and a compelling reason to dismiss the appeal following consideration of all matters in the planning balance.
43. Therefore, even if there was less than three years housing land supply that the appellant states that the Council can deliver, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Seen in the round this would not be a sustainable development as set out in the Framework.

Conclusion

44. For the reasons set out above the appeal should be dismissed.

S. Rennie

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Jonathan Coombes	Pegasus Group (Agent)
Mr Neil Tiley	Pegasus Group
Mr Tony Jones	Pegasus Group

FOR THE COUNCIL

Mr Richard Temple	Case Officer – Dorset Council
Mr Edward Gerry	Planning Policy Team Leader
Mr Philip Reese	Planning Policy Senior Officer
Mr Richard F Burden	Chartered Landscape Architect
Mr Robert Lennis	Area Lead Officer

PARISH COUNCIL

Ms Joanne Witherden
Mr Steve Mercer

MEMBERS OF THE PUBLIC

Mr Christopher Jervis	Local Resident
Mr Allan Peters	Local Resident
Mr Neil Lindsay	Local Resident

DOCUMENTS SUBMITTED WITH THE HEARING –

From the appellant:

- Flood Authority Objection to the ATS Euromaster Site
- Wessex Water commentary on foul drainage delivery constraints in Milbourne St Andrew regarding the Camelco Site
- EA letter setting out constraints on delivery and uncertainty on number for Ham Farm and Newhouse Farm Site
- Committee minutes setting out uncertainty on viability for Ham Farm and Newhouse Farm Site
- Flood Authority objection to the Gillingham Extra Care Facility

- Signed and dated Section 106 legal agreement (received after the Hearing)
- Appeal reference APP/A0665/W/14/2212671 – Darnhall School Lane
- Response to appeal reference APP/D1265/W/18/3206269 (South of Westleaze)

From the Council:

- Local Housing Supply for Hazelbury Bryan
- '14 Wareham Road, Owermoigne' appeal decision referenced in LPA – APP/F1230/W/19/3221387
- Barrow Hill appeal decision APP/N1215/W/18/3203865
- Hazelbury Bryan Table of Identified Need (contributions)
- Better defined location of View 1 (Key Rural Views) from HBNP policy HB4
- Note on Community Infrastructure Levy Regulations 122 and 123 on behalf of North Dorset District Council – Land at Barrow Hill
- Grey, Green and Social Infrastructure Note V2 August 2018
- Email with information regarding application ref: 2/2019/1220/FUL – The Brewery
- Response from Council to appeal reference APP/A0665/W/14/2212671 – Darnhall School Lane.
- Submission of Appeal reference APP/D1265/W/18/3206269 (South of Westleaze)