



Appeal Decision

Hearing held on 12 October 2023

Site visit made on 12 October 2023

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th November 2023

Appeal Ref: APP/W2845/W/23/3318366

Land East of Brington Road, Flore

- 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 Barwood Homes Limited against the decision of West Northamptonshire Council.
 - The application Ref DA/2020/0479, dated 11 June 2020, was refused by notice dated 8 November 2022.
 - The development proposed is an outline planning application of up to 45 dwellings, to include 40% affordable dwellings (7 one bed homes, 5 two bed homes and 6 three bed homes), infrastructure and open space. (All matters reserved other than access).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was submitted by Barwood Homes Limited against West Northamptonshire Council. This is the subject of a separate decision.

Procedural Matters

3. The planning application was submitted in outline. Apart from access, all matters have been reserved for future consideration. I have had regard to the details that pertain to the reserved matters on an indicative basis only.
4. Following amendments to the scheme, the description of the development was amended to 'outline planning application of up to 45 dwellings, to include 40% affordable dwellings (7 one bed homes, 5 two bed homes and 6 three bed homes), infrastructure and open space. (All matters reserved other than access)'.
5. The revised description was also used by the appellant on the appeal form. I consider that the revised description represents a more succinct description of the proposals and have therefore proceeded on this basis.
6. The Council's decision notice does not cite any policies from the Development Plan. Nonetheless, the Council identified relevant Development Plan policies in advance of the hearing. The appellant has had sufficient opportunity to consider the policies cited by the Council. In result, I do not consider that it would cause prejudice to any party to consider the appeal with reference to these policies.

Main Issues

7. The main issues relevant to this appeal are:

- the effect of the development upon the character and appearance of the surrounding area; and
- the suitability of the appeal site as a location for the proposed residential development, with particular reference to the requirements of the Development Plan.

Reasons

Character and appearance

8. The appeal site consists of a field that is used for grazing. It is located beyond the settlement boundaries of Flore. The appeal site is near to several fields, in addition to parts of the built form of Flore. The appeal site is also near to Brington Road and High Street. Accordingly, the appeal site and the neighbouring fields have a rural, undeveloped character. This provides the village of Flore with a less developed character, and a setting which harmonises with the countryside beyond.
9. Although not part of a designated landscape; the appeal site, and surrounding area, comprise fields that have distinctive character in that they are generally free from development, are open and have a generally undulating form. Therefore, the landscape is of importance in providing a rural setting to Flore.
10. The proposed development, although submitted in outline form, would result in an increase in the level of development. This would comprise the erection of up to 45 dwellings, the access to the site from Brington Road and internal roads and boundary treatments. The proposed development would create an urbanising effect.
11. In addition, the proposed development would extent the settlement of Flore into the countryside. Accordingly, the development would conflict with the rural surroundings of Flore, as it would erode the rural setting of the village. The proposal, in this regard, would be incongruous given that it would result in a loss of the existing verdant character that is a feature of the settlement's surroundings.
12. Although the proposed development would likely feature landscaped elements, these are likely to have a less natural appearance when compared to the existing field and also the surrounding landscape. As such, the inclusion of such landscaped areas would not overcome the adverse effects arising from the overall increase in the level of built form. This would also occur even though the proposed development would retain the general field pattern and some landscaping at the edge of the appeal site.
13. A footpath runs across part of the appeal site. When approaching the appeal site, via this footpath, from the countryside beyond, views of the existing settlement are relatively limited. Although traffic noise is apparent, the limited views of development mean that the appeal site and the surrounding area has a rural character.

14. Owing to the proximity of the proposed development to the portion of the footpath that is beyond the appeal site and within open countryside, the proposed development would be readily perceptible, at least on a partial basis. This would result in an erosion of the area's character and would occur even if landscaping were to be retained.
15. The development would also be particularly prominent when viewed from the section of the footpath that runs across the appeal site. This means that the general increase in built form, and resultant erosion of the verdant form of the appeal site, would be readily perceptible from this viewpoint.
16. The indicative layout shows that a drainage basin would be constructed near to the footpath, as opposed to dwellings or areas of hardstanding. Even if the final dwellings were to be constructed in a manner akin to the indicative details, it would likely have a more engineered appearance that would conflict with the existing verdant character.
17. In result, the proposed development would be a strident as the loss of the site's open character would be particularly notable. This would result in significant harm, when viewed from the footpath.
18. The development would be accessed from Brington Road. This would necessitate the creation of a vehicular access into the appeal site. Furthermore, the appeal scheme would include the creation of pavement in Brington Road. These measures would, in unison, create a suburban appearance that would conflict with the existing rural character.
19. In addition, the creation of the new access road would allow for views into the appeal site. This means that the increase in built form, and resultant loss of the rural and verdant landscape would be readily experienced by those passing the site.
20. Furthermore, the landscaping in Brington Road is of varying heights meaning that views into the appeal site are readily possible. Owing to the nature of the proposed development, this would result in significant erosion of the character of the landscape when viewed from various points in Brington Road.
21. From Brington Road, it is possible to view relatively recent, nearby, residential developments. However, the views of these developments are only partial owing to landscaping. These developments do not feature accesses onto Brington Road. Thus the existing developments do not have the same effects that the appeal scheme would have.
22. The factors mean that the development would have a moderate adverse effect on the character of Brington Road.
23. Whilst the appeal site is located on land that is higher than the High Street, the development would be perceptible. This is because the final development is likely to be located in the portion of the appeal site that is closest to the boundary of the site with the High Street.
24. This boundary features some planting and additional landscaping could be secured at the reserved matters stage. Nevertheless, the screening effect would not be total. In result, the increase in built form would be experienced from the High Street.

25. The section of High Street nearest the appeal site features some buildings. When compared to other parts of Flore there are less buildings. This allows for the High Street to act as a transitional space between the centre of the village and the open countryside beyond the settlement. This role would be compromised by the proposed development and resultant increase in built form.
26. Given that only a portion of the proposed development would be visible, the proposal would have a limited adverse effect on the character of the area, when viewed from the High Street.
27. Views of the development would also be possible from other vantage points in the wider area. This means that any such views would be of a fleeting nature and that the development would only have a limited adverse effect upon these areas.
28. Although landscaping could be provided that would, in time, provide some screening, this would take some time to become established. Furthermore, it is unlikely to mitigate all the views from Brington Road and the footpath. As such, this does not overcome my concerns as the development would remain prominent.
29. Owing to the scale of the development, the effects of the proposal would vary depending on location. Taken cumulatively, the development would have a moderate adverse effect on the character and appearance of the surrounding area.
30. The development, in this regard, would conflict with Policy S10 of the West Northamptonshire Joint Core Strategy (2014) (the JCS); Policies F1 and F5 of the Flore Neighbourhood Plan (2016) (the Neighbourhood Plan); and Policies ENV1; RA2 and RA6 of the Daventry Settlements and Countryside Local Plan (Part 2) (2020) (the Local Plan). Amongst other matters, these seek to ensure that developments achieve the highest standards of sustainable design; not result in the loss of an area which makes a significant contribution to public amenity and enjoyment by virtue of its open space character; have high quality design including access; maintain the distinctive character and quality of the landscape; protect the form, character and setting of the village; and recognise the intrinsic character of the countryside.

Suitability of the site

31. In considering this appeal, I have been directed towards several policies that provide a strategy for the location of new development in the area. These are in the JCS; the Neighbourhood Plan; and the Local Plan.
32. Relevant policies include Policy S1 of the JCS. Amongst other matters, this requires that development be provided in a hierarchy of settlements and that new developments in rural areas are limited with the emphasis on meeting defined criteria.
33. Policy R1 of the JCS states that residential development in rural areas will be required to be within the existing confines of the village; be of an appropriate scale to the existing settlement; and not affect open land which is of particular significance to the form and character of the village.

34. Policy F2 of the Neighbourhood Plan states that, in line with Policy R1 of the JCS, development outside of villages will only be supported, which meets an identified local need. Neighbourhood Plan Policy F4 states that affordable housing and rural exception site developments outside of the settlement boundaries should comprise no more than 10 dwellings.
35. Local Plan Policy SP1 states that, to ensure a sustainable pattern of development, proposals will be guided by defined spatial principles. Local Plan Policy RA2 states that development outside settlement boundaries will be acceptable, where it would clearly meet an identified local need; and would protect the form, character and setting of the village.
36. There is some debate as to whether Neighbourhood Plan Policy F4 is applicable to the appeal scheme. It is common ground that the appeal proposal does not represent a rural exception site. However, the proposed development provides affordable housing, which would be secured by a legal agreement. Policy F4 is clear that market housing can be delivered on affordable housing sites. In this case, the proposed market housing would support the delivery of the affordable housing. In consequence, I believe that Policy F4 is applicable to this scheme.
37. The proposed development would be located outside of the defined settlement boundaries. This means that the proposed development would conflict with several of the previously described planning policies. Therefore, it is necessary to establish whether any harm would arise from these breaches of planning policy.
38. The evidence before me indicates that the purpose of directing development to a defined hierarchy of settlements is to ensure that the occupiers of a new development have sufficient access to the services and facilities, they are likely to require on a regular basis. In addition, it is to ensure that developments are accessible, such as by public transport.
39. As the development would be located outside of settlement boundaries, residents would not have ready access to the services they would require. Although the appeal site is near to Flore, the level of facilities on offer in the village are commensurate with the size of the settlement.
40. In consequence, the occupiers of the proposed development would need to travel to other settlements in order to meet their day-to-day needs. There is a likelihood that a notable number of these journeys would need to be by private cars meaning that the location of the development would generate harm. This would be in addition to the harm to the character and appearance of the surrounding area, including the rural setting of Flore as previously identified.
41. Furthermore, harm would arise from the likely quantum of development as a relatively large number of people would occupy the development. Neighbourhood Plan Policy F4 seeks to ensure that developments outside of the village boundaries feature no more than 10 dwellings. Even if this part of the policy should be applied to the affordable housing element of the development only, I have no reason to believe that the final scale of the development would not be akin to the maximum parameters included within the appeal scheme.
42. Given the requirements of the submitted legal agreement, it is likely that the affordable housing element of the proposal would exceed 10 dwellings. This represents a breach of Policy F4.

43. At the hearing, it was established that the development is designed to respond to a local need. This is referenced in Policy F2 of the Neighbourhood Plan. Nevertheless, this policy would still be breached given that it also requires compliance with Policy R1 of the JCS. In addition, although Policy SP1 of the JCS supports housing to meet a local need, it is also clear that developments should maintain the character of an area. For the preceding reasons, this policy has been breached and harm would emanate.
44. It has been suggested that there is an inconsistency between Policy F2 of the Neighbourhood Plan and the JCS, given that Policy F2 references development outside of settlement boundaries. It has been suggested that precedence should be given to Policy F2.
45. Even if I were to agree with this approach, I would find that the development would conflict with the spatial strategy as outlined in the JCS and, the more recent, Neighbourhood Plan Policy F4 and the Local Plan. Accordingly, the development would conflict with the development plan, taken as a whole. This would result in significant harm.
46. I conclude that the proposed development would conflict with Policies S1 and R1 of the JCS; Policies SP1 and RA2 of the Local Plan; and Policies F2 and F4 of the Neighbourhood Plan.

Other Matters and Planning Balance

47. The appellant revised the planning application prior to determination, to reduce the number of proposed dwellings. However, I have assessed the revised scheme against the requirements of the development plan and have found that harm would emanate.
48. The appeal site is near to a Conservation Area. As I am dismissing the appeal, I do not need to give this matter further consideration.
49. Planning decisions should be made in accordance with the requirements of the development plan, unless material considerations indicate otherwise. In this instance, the proposed development would generate significant harm arising from the breach of the spatial strategy and moderate harm to the character and appearance of the surrounding area.
50. However, the proposed development would provide affordable housing. This could be secured through a legal agreement. This is of benefit given the need to deliver housing of differing types in order to meet the needs of all members of the community.
51. In addition, the evidence before me indicates that affordable housing is in some need in the locality. Therefore, the delivery of affordable housing on the site carries a significant amount of weight.
52. Although the Council can demonstrate a five-year housing land supply for the Local Plan area, there is a need for some new housing in the village of Flore. The development would contribute to addressing this need. In this regard, the submitted legal agreement includes a clause that would ensure that, on first occupation, the proposed development would be utilised to meet local needs only.

53. One of the suggested planning conditions includes provision by which the housing mixture would be agreed by the Council at a relatively early stage. Consequently, the dwellings that are proposed would respond to the local needs in Flore.
54. However, the benefits arising from this are tempered by reason of the fact that the development would be located outside of settlement boundaries and would have an adverse effect upon the character and appearance of the surrounding area. It has also not been demonstrated that it would not be possible to deliver all, or a portion of, the housing needed inside the settlement boundaries.
55. It has also not been demonstrated that, if the housing could not be provided in the settlement, such as due to insufficient available plots, it could not be provided in smaller clusters outside of the settlement that may have a lesser adverse effect.
56. The appellant has provided a legal agreement, which would bind the first occupation of the market housing to people with a local connection. Notwithstanding this, once first occupied, the market housing could be made available for occupation by any potential resident. This potentially means that the market housing could be occupied by people without a local connection.
57. These factors reduce the weight that can be given to the delivery of the market housing. In result, this can be given a moderate amount of weight.
58. The development would deliver some economic benefits and improvements to biodiversity. Given the scale of the development and the current undeveloped nature of the appeal site these are matters that are unlikely to deliver extensive benefits. In addition, any economic benefits arising from the construction process are likely to be time-limited in duration. There is also limited evidence before me that indicates that existing services and facilities are experienced a lack of support. These matters can individually only be given a limited amount of weight.
59. Public open space would also be provided in the development. Owing to the topography of the site, and quantum of development, the public open space is likely to be located to the rear of the site. This would mean that it would not be a convenient option for residents of the settlement of Flore. This can only be given a limited amount of weight.
60. A completed legal agreement has been submitted. This includes mechanisms for the provision of matters including education, health care and transport. However, the purpose of the legal agreement is to mitigate the effects of the development, rather than provide additional benefits for the occupiers of the wider area. This can only be given a limited amount of weight.
61. The proposed development would conflict with development plan policies that seek to ensure that proposed developments maintain the character and appearance of the surrounding area. In addition, the proposal would conflict with the development plan given that the scheme would be outside of a settlement boundary. Therefore, having regard to the extent and nature of the harmful impacts the proposal would have upon the character of the area and the development plan and national policy conflicts are matters to which I cumulatively attribute a high level of weight.

62. Overall, the high level of harm arising from the unsuitable nature of the appeal site's location and the harm to the character and appearance of the surrounding area are such they outweigh the benefits of the proposal. Accordingly, on this occasion other considerations do not indicate the decision should be taken otherwise than in accordance with the development plan.

Conclusion

63. The scheme would conflict with the development plan taken as a whole. There are no material considerations, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR

APPEARANCES

For the appellant:

Thea Osmund-Smith	No. 5 Chambers
Paul Wakefield	Shakespeare Martineau
Andrew Gore	Marrons
Will Gardner	EDP

For the Local Planning Authority:

Andrew Murphy	West Northamptonshire Council
Jane Parry	West Northamptonshire Council

Interested Parties:

Andy Anderson	Flore Parish Council
Heather Anderson	Local resident
Paul Minton	Local resident

Documents submitted after the Hearing closed:

Completed legal agreement



Costs Decision

Hearing held on 12 October 2023

Site visit made on 12 October 2023

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th November 2023

Costs application in relation to Appeal Ref: APP/W2845/W/23/3318366 Land East of Brington Road, Flore

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Barwood Homes Limited for a partial award of costs against West Northamptonshire Council.
- The appeal was against the refusal of planning permission for an outline planning application of up to 45 dwellings, to include 40% affordable dwellings (7 one bed homes, 5 two bed homes and 6 three bed homes), infrastructure and open space. (All matters reserved other than access).

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Owing to the scale of the proposed development, a Section 106 Agreement was required. This document was drafted, albeit not completed in advance of the hearing taking place. It is understood that the Council, at a late stage and close to the hearing taking place; made comments and raised questions regarding the drafting of the Agreement.
4. The timing of such correspondence was inopportune, particularly as the hearing had been postponed from a previous date. However, the Council was required to ensure that the Legal Agreement met its requirements in being enforceable; provided the required mitigation for the development; and ensured that the development was policy compliant.
5. The appellant therefore instructed their solicitor to attend the hearing, in order to participate in the section of the discussion pertaining to the legal agreement. I appreciate that this required the solicitor to be present for the entire hearing as it was not certain as to the time that discussions regarding the legal agreement would commence.
6. However, it is the choice of the relevant parties as to which professional representatives attend a hearing, if indeed any. Therefore, it was the choice of the appellant that their solicitor attended the hearing, rather than it being a requirement of the proceedings. This is the case even though the appellant's

solicitor was instructed to attend the hearing at relatively short notice and only following the written comments of the Council being received.

7. Had the comments from the Council been received by the appellant at an earlier juncture, there was a likelihood that these matters could have been resolved in advance of the hearing commencing. However, this did not necessitate the appellant's solicitor to attend the hearing to conclude matters, given the format of a hearing.
8. Therefore, although there was a delay in the Council providing comments, I do not believe that this caused wasted or unnecessary expense on the part of the appellant. In result, I am unable to conclude that the Council has acted unreasonably in this regard.
9. In addition, any additional drafting of the agreement would have needed to be undertaken irrespective of the timing of the comments. This means that the Council's actions did not result in wasted, or unnecessary expense.

Conclusion

10. I therefore conclude that the Council has not acted unreasonably and therefore there has not been any wasted or unnecessary expenses, as described in the PPG. Accordingly, an award of costs is not justified.

Benjamin Clarke

INSPECTOR