



Appeal Decision

Site visits made on 16 January 2024 and 14 March 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2024

Ref: APP/F2415/W/23/3328703

Land north of Broughton Way, Broughton Astley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by V300 Projects Ltd against the decision of Harborough District Council.
 - The application Ref 21/01975/OUT, dated 4 November 2021, was refused by notice dated 1 March 2023.
 - The development proposed is for a residential development.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by V300 Projects Ltd against the decision of Harborough District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The name of the appellant on the appeal form differs from the applicant listed on the planning application form. I have been advised that the appeal is being pursued by the original applicant, despite the different names, and I have borne this in mind when making my decision.
4. The application is in outline with all matters reserved for future consideration, save for access. I have determined the appeal on this basis.
5. Illustrative plans accompany the application and I have paid regard to this information in so far as assessing the principle of development in land use terms.
6. The Council advise that sustainable drainage details could be dealt with by condition and no longer wish to defend the third reason for refusal. On this basis, I therefore, have not addressed this matter in my reasoning below.

Main Issue

7. The main issue is the effect of the proposed development upon the character and appearance of the area and the defined Area of Separation.

Reasons

8. Broughton Astley is a large settlement that contains a number of day-to-day services and is largely contained to the south of the B581 which is a busy road

that extends along the southern edge of the appeal site. In contrast Sutton in the Elms is much smaller extending in a linear manner along Sutton Lane, which is a no through road, and has a rural feel.

9. The appeal site is open and undeveloped comprising scrub with boundaries formed of hedgerow and trees. It forms part of an open landscape, part of which is identified as an Area of Separation, between the settlements of Broughton Astley and Sutton in the Elms formed of fields, scrubland and a paddock. This landscape contributes to the rural appearance of the area and provides a notable visual and spatial buffer between the two settlements.
10. My attention has been drawn to planned development in this landscape, including a large-scale employment development, neighbouring the appeal site and a golf course to the north west, although at the time of my site visits there was no obvious signs of construction works taking place on either site.
11. A public footpath extends diagonally across the site and links Broughton Astley and Sutton in the Elms. It is apparent that the footpath is well used and that the site is highly accessible. Part of its route extends along the back of houses on Sutton Lane and whilst glimpsed views of the built form exist through the vegetation, there is still a sense of rurality when walking along the footpath. As you enter the site and the landscape opens up there is a stronger sense of rurality due to the green and open nature of the site, despite the presence of the B581 and nearby built form and the associated activity.
12. The proposed development is for up to 34 dwellings comprising a mix of market and affordable housing and self-build plots. Whilst the detailed design and layout are reserved matters it would urbanise the site eroding its open appearance as a result of the built form, associated infrastructure and domestic paraphernalia.
13. Despite the presence of structures and miscellaneous items including fencing, tracks and solar panels the neighbouring site has an open appearance positively contributing to the character of the area. The site of the golf course is currently formed of an open and undulating landscape, and it would largely have a green and verdant appearance once completed. Irrespective of whether they form previously developed land these series of parcels together with the **appeal site and Finn's Field have an** open and green aspect and provide an important visual and spatial buffer between Broughton Astley and Sutton in the Elms. In this context, I do not agree that the proposed development would be read as an infill development but rather as an unwelcome intrusion into open countryside.
14. Whilst development of the neighbouring site for employment uses would, to some extent, diminish this gap, it would be contained by existing field boundaries and would leave degree of separation between it and Sutton in the Elms.
15. I acknowledge that the landscape character of the area has changed since the Lutterworth and Broughton Astley Landscape Character Assessment and Capacity Study was undertaken on account of planned developments. However, the open aspect of the Area of Separation nor its purpose of protecting the separate identities of Broughton Astley and Sutton in the Elms has been substantially undermined by this development.

16. Coalescence is largely a matter of perception, and it is important to understand how the area is experienced as people move through it. The B581 is a busy road flanking the southern boundary of the site and when travelling along it the proposed development would be seen in the context of commercial buildings, once constructed, albeit views of it would be filtered by existing vegetation. Therefore, there would be a fleeting appreciation of the proposed development and no real appreciation of the encroachment into the rural landscape from the road.
17. Despite the above, the proposed development would be most evident in views from along the footpath. As part of the proposal there would be a requirement to divert the route of the footpath as it crosses the site. I acknowledge that the precise route of it is yet to be determined, however, it is likely that it would extend through or alongside the proposed housing development. Consequently, the experience of users of the public footpath would significantly and adversely change resulting from the diminishment of the spatial and rural qualities of the public footpath as it crosses the site.
18. Whilst the effects would be localised the proposal would adversely affect the existing visual and spatial relationship between Broughton Astley and Sutton in the Elms. It would unacceptably reduce the physical and perceptual gap between the two settlements adversely affecting the character and appearance of the area and the defined Area of Separation.
19. The proposal, therefore, conflicts with Policies GD2, GD5, GD8 and H5 of the Harborough Local Plan (2019) and Policies H3 and EH2 of the Broughton Astley Neighbourhood Plan (2014) which, amongst other things, require developments to respect the form and character of existing settlements and landscape; respect and enhance local character and distinctiveness of the settlement concerned and do not permit developments that would detract from the open character of the Area of Separation or reduce the visual separation between the two settlements.
20. I note the council have referred to Policy GI5 in the second reason for refusal, however, I find that with specific regard to this appeal I have given it negligible weight in coming to my decision.

Other Matters

21. The Self-Build and Custom Housebuilding Act 2015 introduced a legal duty on local authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for **self-build and custom housebuilding (SBCH) in the authority's area** arising in each base period. Authorities must have regard to the Register when carrying out their planning functions, including making decisions on planning applications.
22. **The Council's data in respect of SBCH covers 12-month base periods starting in October 2016.** At the end of each base period, the local planning authority has three years to permit an equivalent number of suitable permissions for SBCH, as there are entries for that base period. **The Council's own figures show that** the total number of entries on the register across the eight base periods from October 2016 to October 2023 is 160. In that time, the Council has granted

- permission for just 24 plots, representing a significant shortfall in the delivery of self-build units.
23. As such, whilst LP Policy H5 supports proposals for SBCH, I am of the view that it is highly unlikely that the Council will deliver a sufficient number of plots to address the current shortfall and meet the requirement in the near future. It is evident that up to 10 self-build houses would contribute towards meeting the requirement for such housing in the district.
24. Ordinarily, this matter would attract substantial weight. However, the appellant has not provided an executed planning obligation to secure the intended plots as self-build. Taking into account the overall size of the development and the number of SBCH plots proposed I am of the view that a condition would not be appropriate in this instance. As such, there is no certainty that the proposed development would secure the delivery of SBCH in order to address this shortfall.
25. I recognise that the NP does not include policies relating to SBCH, nonetheless, it does support housing in the plan area including windfall development. Therefore, I am not persuaded that the NP constricts the delivery of SBCH. It is evident that the NP takes account of the neighbouring employment site and the wording of Policy EH2, which relates to the Area of Separation, whilst seeking to maintain separation between Broughton Astley and Sutton in the Elms does not preclude development from taking place within it provided it does not detract from its open character. As set out earlier the neighbouring equine use and golf course would largely maintain this. Whilst the LP does not set out specific areas of separation, it does nonetheless, seek to maintain the open character of such areas and reaffirms their importance in maintaining the separate identities of settlements. Therefore, based on the evidence before me, I am satisfied that the NP does broadly conform with the development plan.
26. My attention has been drawn to an appeal decision allowing development of a site for SBCH plots in Sutton in the Elms. Whilst I have had regard to it, this decision does not lead me to reach a different conclusion in respect of the appeal. In any case, every appeal must be considered on its own merits, as I have done.

Planning Balance

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
28. The provision of up to 34 dwellings would make a reasonable contribution towards the areas housing supply. I acknowledge that the deliverable five-year supply of housing land figure is not an upper limit and the proposed development would contribute to supply locally. However, given the local planning authority are meeting its responsibilities in terms of overall housing supply I afford this moderate weight in the overall balance.
29. The delivery of affordable housing and SBCH plots providing a mix of units of different sizes and tenures and for those wishing to commission their own home attracts significant weight.
30. The site is located opposite Broughton Astley within a short distance of a range of day-to-day services. Future occupiers would be able to reach these on foot,

providing them with transport choice and an alternative to car use. This weighs in the scheme's favour.

31. The construction of up to 34 dwellings would provide jobs, albeit this would be largely short term limited to the construction phase. Future occupiers would help to maintain the vitality of services and facilities in Broughton Astley through increased spending. The net gain in biodiversity would also be a benefit. However, these benefits would be moderate in the overall balance.
32. The Framework makes it clear that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development and creates better places in which to live and work. As set out above I have found that the proposed development would adversely affect the character and appearance of the area and would result in coalescence between Broughton Astley and Sutton in the Elms.
33. Furthermore, the absence of a planning obligation and the adverse impact of failing to provide financial contributions towards community facilities, open space, libraries, education, travel packs, the NHS and the delivery of affordable housing and SBCH plots weighs significantly against the proposal.
34. Even taking into account the objective to significantly boost the supply of housing including on windfall sites, the conflict between the proposal and the LP and NP should be given very significant weight in this appeal.
35. In the context of the above, and taking into account the aforementioned other considerations, I find that the identified adverse impacts of the development would significantly and demonstrably outweigh the identified benefits of the proposal. Consequently, the presumption in favour of sustainable development therefore does not apply in this case.
36. I conclude that the proposal conflicts with the development plan, when read as a whole. There are no other considerations that outweigh that harm. The appeal is therefore dismissed.

Conclusion

37. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR



Costs Decisions

Site visits made on 16 January 2024 and 14 March 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2024

Costs applications in relation to Appeal Ref: APP/F2415/W/23/3328703 and Ref: APP/F2415/W/23/3328656

Land north of Broughton Way, Broughton Astley

- The applications are 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 applications are made by V300 Projects Ltd for a full award of costs against Harborough District Council.
- The appeals were against the refusal to grant subject to conditions planning permission for a residential development and a proposed development of up to 17 self-build residential dwellings.

Decision

1. The applications for an award of costs are 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. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal and making **vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.**
4. The reasons for refusal set out on both decision notices are complete, specific and relevant to the application and also clearly state the policies of the Harborough Local Plan and Astley Broughton Neighbourhood Plan that the proposals would conflict with. The reasons for refusal have been adequately **substantiated within the Officer's Report** based on the evidence submitted by the applicant, statutory consultees, third parties and the observations of Council Officers.
5. It is evident from the information before me that the Council have not failed to give due weight to developments in the locality of the appeal site. Nor have the Council disputed the shortfall in self-build and custom housebuilding plots in the district and have presented their cases accordingly.
6. The decisions made are ones which are a matter of planning judgement based on the merits of the proposal and the evidence submitted. I find that the Council have objectively assessed the planning application, rather than making

assumptions, and not failed to properly evaluate the planning applications or failed to have due regard to the merits of the cases presented or local and national planning policies and other considerations.

7. As seen from my decisions I have found that the Council had legitimate concerns about the impact of the proposed developments. The Council have not acted unreasonably in exercising planning judgement and coming to their decisions.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated. For this reason, and having had regard to all other matters raised, an award of costs is not justified.

B Thandi

INSPECTOR

Richborough