
Appeal Decision

Site visit made on 13 September 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 11th October 2016

Appeal Ref: APP/G2435/W/16/3151499

**Land to the South East of Station Hill, Swannington, Coalville,
Leicestershire LE67 8RJ**

- 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 John Barnett against the decision of North West Leicestershire District Council.
 - The application Ref 15/01218/OUTM, dated 22 December 2015, was refused by notice dated 14 April 2016.
 - The development proposed is the erection of up to 10 dwellings with a new access from Station Hill.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters other than access reserved for future consideration. I have dealt with the appeal on this basis, treating the proposed site plan¹ that shows the access to the highway as indicative insofar as it relates to the layout, appearance and scale of the dwellings and landscaping.
3. The Council advises that since the refusal of planning permission it has published Background Paper 4 in connection with the publication stage of the emerging North West Leicestershire Local Plan (ENWLLP) which states that the Council are now able to demonstrate a 5.4 year housing land supply. The appellant has drawn my attention to an appeal decision (APP/G2435/W/15/3005052) and highlighted the Inspector's findings in relation to the Councils 5 year housing land supply.
4. Both parties are aware of, and have had the opportunity to comment on, these documents and they are not therefore prejudiced by my consideration of them. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis.
5. Reference has been made to policies within the ENWLLP. However, I have not been provided with a copy of the document and as it has yet to go through Examination in Public the policies within it could still be subject to change. As such I give the policies within the ENWLLP little weight.

¹ Drawing No JB01-ISP-01

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

7. The appeal site is situated on the south-eastern side of Station Hill within the village of Swannington. It comprises an irregular shaped open field that slopes down towards a brook course. The published landscape character assessment that has been referred to in the Landscape Review (the LR), submitted with the planning application, provides a high level or 'broad brush' description of the area.
8. However, there is no published character assessment at a local scale. The LR summarises the key characteristics of the local landscape character which include ribbon settlement extending along Station Hill and Main Street comprising terraces, individual properties and clusters of residential development. It also includes predominantly rough grassland and pasture land use to settlement edge with interspersed allotments and open spaces.
9. The ribbon development gives a clear linear pattern of development with the majority of dwellings directly facing Station Hill/Main Street. There is a variety of age and form from traditional terraces to modern detached dwellings. However, the overriding characteristic is the clear linear pattern which is interspersed by areas of open land that emphasise the rural character of the area and allow filtered views into the countryside. Whilst the site is presently largely screened from Station Hill by mature landscaping, it forms part of the attractive countryside setting to Swannington when seen from the public right of way to the east (N40). I acknowledge that the site does not form part of a designated landscape.
10. The indicative plan shows a development of detached housing with a built footprint covering the majority of the site, with the exception of the area immediately adjacent to the brook course which would incorporate a balancing lagoon. I note the appellants point that the proposed site plan is indicative of a layout of how 10 dwellings could be accommodated on the site and that he is not tied to that layout as all matters are reserved for later approval (except for access). However, given the irregular shape of the site and the topography I consider that the density and site coverage shown on the drawings before me is representative of how a scheme of 10 detached dwellings could be accommodated. In particular, any development of that scale would occupy the front section of the site adjoining Station Hill and also the remainder of the site which extends onto the lower ground towards the brook course.
11. The houses on the lower part of the site would be set well back from Station Hill but they would be seen in glimpsed views along the new access drive between the frontage properties and from the neighbouring properties and gardens. Moreover, the proposed development would be particularly noticeable from the public footpath (N40) which passes to the east especially in the winter months when the landscaping along the brook course would not be in leaf.
12. The proposed dwellings would be seen against the existing settlement but the positioning of dwellings behind the frontage properties would be at odds with the predominant pattern of development in this part of the village, in which

dwelling are arranged in a linear way and directly face the public highway. Ten dwellings would introduce substantial new built form and hard surface areas for access and parking into undeveloped open land that, at present, positively contributes to the rural character of the area.

13. The proposal would therefore erode the present open character of the site and the rural character of the area. In visual terms I consider that the development would not integrate successfully with the existing settlement and it would appear as an anomalous cluster of housing projecting down the valley slope towards the brook course. Consequently the proposal would not appear as a natural extension of the existing settlement but as an unsympathetic extension into open countryside. In this respect, the proposal would be harmful to the character and appearance of the area.
14. I appreciate that the dwellings on New Close do not comply with the predominant linear pattern of the village. However, I do not consider that the development, whilst permitted by the Council, should justify a further erosion of the character and appearance of the area.
15. The appeal site is within an area designated as Green Wedge through Policy E20 of the North West Leicestershire Local Plan 2002(the LP). This policy states that development will not be permitted which would adversely affect or diminish the present open and undeveloped character of the Green Wedge. It goes on to state that appropriate uses in the Green Wedge are agriculture, forestry, minerals, extraction and outdoor sport and that any built development permitted within the Green Wedge will be limited to minor structures and facilities which are strictly ancillary to the use of the land. Given my findings above it follows that the proposal would not comply with LP Policy E20.
16. However, the LP pre-dates the Framework, which requires that policies are given weight according to their degree of consistency with it (paragraph 215). The policy is not entirely consistent with the Framework as it restricts housing development and does not consider the promotion of sustainable development in rural areas but it does recognise the intrinsic character and beauty of the countryside. As such I can only give it limited weight and the policy conflict has reduced weight.
17. Moreover, the Council's Green Wedge Review (2012) recommended that the Western Green Wedge, that includes the appeal site, be allocated as countryside due to its links with the wider countryside to the north, its accessibility and rural nature. The Council have confirmed that the designation of the appeal site as Green Wedge would not be progressed in the ENWLLP.

However, LP Policy E4 states that, amongst other things, regard will be had to the wider setting of new buildings and new development should respect the character of its surroundings. This policy is broadly consistent with the Framework and as such I give it substantial weight. For the reasons given, I conclude that the development would be poorly related to the existing built form of the village and would significantly harm the character and appearance of the area. Therefore, the proposal would fail to comply with the requirements of LP Policy E4. It would also not comply with paragraph 17 of the Framework which, amongst other things, requires that decisions take account of the roles and character of different areas, recognising the intrinsic character and beauty of the countryside.

Other Matters

18. There is no dispute between the parties that the site is beyond the defined Limits to Development in relation to LP Policy S3. This policy states that development will be permitted outside the Limits to Development only where it meets set criteria. I have no evidence before me that the proposed development would meet those criteria and as such the proposal would not comply with LP Policy S3. Both parties refer to a recent appeal decision² in which the Inspector states that LP Policy S3 is inconsistent with the Framework. I have no reason to dispute this finding. As such I can only give LP Policy S3 limited weight and the policy conflict has reduced weight.
19. The Council have referred to an appeal decision associated with a previous planning application on the appeal site. However, I have not been provided with a copy of that decision and as such I cannot be certain that the schemes are directly comparable. As such I can only give it limited weight. In any case I am required to determine the appeal on its own merits.
20. Following the judgement of the Court of Appeal of May 2016³ the Secretary of State's Written Ministerial Statement of 28 November 2014 (WMS) defining the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development is once again a material consideration in determining planning applications and appeals. The WMS sets a threshold of 10 units, and which have a maximum combined gross floor space of 1,000 square metres below which affordable housing should not be required. Following the Court of Appeal ruling the Planning Practice Guidance (PPG) was also updated.
21. The Council are of the opinion that it is unknown, due to the outline form of the application, whether the combined floor space of the development would exceed 1,000 square metres and as such whether contributions can be sought in relation to this development. I note the appellant's offer to enter into a legal agreement to cover both affordable housing and education facilities.
22. I note the positions of both parties but no unilateral undertaking or planning obligation for the provision of affordable housing and education facilities has been submitted. However, as I have already found the scheme unacceptable for other reasons this matter would not alter the balance of my conclusions, would not lead to a different decision and therefore I have not considered it further.

Conclusion

23. In terms of the three dimensions to sustainability set out in paragraph 7 of the Framework, the proposal would make a modest contribution to the local economy including the provision of construction jobs, some additional local spend and New Homes Bonus and community charge receipts. I acknowledge that there would be sustainability benefits associated with the proposal and the appellant has highlighted that the dwellings would be energy efficient. Both parties agree that the appeal site is in a sustainable location. Landscaping and other measures could enhance the bio-diversity of the site.

² APP/G2435/W/15/3005052

³ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council; [2016] EWCA Civ 441.

24. The dwellings would have a social role by making a modest contribution to housing supply. When the application was determined the Council could not identify a 5 year housing land supply. The Council have subsequently produced Background Paper 4 with respect to this matter. The appellant has submitted a recent appeal decision ⁴ where the Inspector considered that the Council could not demonstrate a 5 year housing land supply. However, Background Paper 4 appears to post date that appeal decision and the appellant has not disputed the figures in that paper. But the figures in Background Paper 4 have not been tested through the Examination in Public of the ENWLLP. Consequently the evidence on the topic of housing land supply is inconclusive. However, even if I were to share the appellant's view that the Council has not demonstrated an adequate supply, the issue would be whether the proposal constitutes sustainable development (paragraph 49 of the Framework).
25. I have found that the proposal would result in significant harm to the character and appearance of the area. As such it would conflict with the development plan and would not accord with the environmental dimension of sustainable development. When assessed against the Framework taken as a whole that harm would significantly and demonstrably outweigh the benefits associated with the proposal.
26. Given that the 3 roles of sustainability are mutually dependent and should not be undertaken in isolation, I conclude that the proposal would not comprise sustainable development for which the Framework indicates there is a presumption in favour.
27. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR

⁴ APP/G2435/W/15/3005052