

Appeal Decision

Hearing held on 3 January 2017

Site visit made on 3 January 2017

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: 03 February 2017

Appeal Ref: APP/X2410/W/16/3156475

Land at Swan Street, Seagrave, Leicestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G McHugh of McHugh Construction Ltd. against the decision of Charnwood Borough Council.
 - The application Ref P/15/2491/2, dated 4 December 2015, was refused by notice dated 16 February 2016.
 - The development proposed is residential development of 3 detached dwellings and associated access and garage/parking arrangements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Statement of Common Ground (SoCG), which has been agreed by the two main parties, states that there are no technical or environmental objections to the proposed application in terms of ecology. Both parties agreed at the hearing that the updated Extended Phase 1 Survey and the Great Crested Newt Mitigation Strategy (August 2016) (Documents 1 and 2) together overcome reason for refusal 1d and as such I do not address this matter in my reasoning below.
3. At the Hearing both main parties agreed that drawing No F15003/01 was considered as part of the planning application and had not been submitted as part of the appeal process. During the hearing I was provided with a copy of that drawing and I have dealt with the appeal on this basis (Plan A).
4. It was also agreed by both main parties at the Hearing that the reference to Policy CS10 of the Charnwood Local Plan 2011-2028 (CS) at paragraph 5.3 of the SoCG was in error and was not relevant for the purposes of the appeal before me.

Main Issues

5. The main issues are:-
 - Whether for the purposes of applying the provisions of the National Planning Policy Framework (the Framework) the Council can demonstrate a 5 year supply of housing;
 - The effect of the proposed development on the character and appearance of the surrounding area with particular regard to the Seagrave Conservation Area (SCA);
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- Whether the site is a suitable location for housing, having regard to the development plan and the Framework.

Reasons

6. The appeal site is a paddock currently being used in connection with equestrian activity and it is in close proximity to the junction of Swan Street and Green Lane. The village primary school is on the opposite side of Swan Street to the appeal site. The site is within the southern part of the SCA and there is a deep green verge to Swan Street adjacent to the site.
7. CS Policy CS 1 sets out a development strategy for the Borough and Seagrave is identified as being within the small villages and hamlets category within this policy. It states that services and facilities will be safeguarded and that the Council will respond positively to development that meets a specific local social or economic need that is identified by a Neighbourhood Plan or other appropriate community-led strategy.
8. I acknowledge that the appellant considers that Seagrave meets the criteria to be classed as an Other Settlement under CS Policy CS 1. In relation to this category this policy states, amongst other things, that the Council will respond positively to small-scale opportunities within defined limits to development. However, there is no dispute between the main parties that the appeal site lies adjacent to but outside of the defined limits of development for Seagrave. As such, for the purposes of planning policy the site is within the countryside.
9. CS Policy CS 11 seeks to protect the character of the countryside. CS Policy CS 14 seeks to conserve and enhance historic assets.
10. Saved Policy ST/2 of the Charnwood Local Plan 2004 (LP) states that built development will be confined to land within limits of development identified on the Proposals Map. The supporting text of the policy states that the limits ensure that development needs can be met without unwarranted harm to the countryside.
11. Saved LP Policy CT/1 seeks to strictly control development in the countryside and lists a number of small-scale new built developments that are acceptable in the countryside where there would not be a significant adverse environmental impact. Saved LP Policy CT/2 requires development that is acceptable in principle, in areas defined as countryside, not to harm the character and appearance of the countryside and safeguard its historic interest.
12. As the LP pre-dates the Framework paragraph 215 indicates that due weight should be given to relevant policies according to their consistency with the Framework. It was agreed by the main parties at the Hearing that the LP policies noted above are broadly consistent with the aims of the Framework. I have no reason to dispute this and as such LP Policies ST/2, CT/1 and CT/2 are given significant weight.

Housing Land Supply

13. The appellant considers that the Council cannot demonstrate a 5 year supply of housing land as required by paragraph 47 of the Framework. This is based on the findings of previous Inspectors¹ in relation to the delivery of houses on 3 Sustainable Urban Extensions (SUE)². The appellant has not challenged any other aspect of the Council's housing trajectory for the five year period 2016-

¹ APP/X2410/W/15/3028131 & APP/X2410/W/15/3004925

² North East of Leicester SUE, West of Loughborough SUE and North of Birstall SUE

- 21 that informs its assessment of housing supply. He has also not challenged the Council's method for assessing housing supply.
14. The Council have referred to appeal decisions³ on a site at Muckle Gate Lane that post-date the appeal decisions cited by the appellant. The Inspector in those cases did raise concerns in relation to the likely development programmes that the Council had provided. However, he found that "*Given, in fact, the commitment by the Council and other stakeholders towards delivery of housing on the three sites it is safe to conclude that the Council can demonstrate, at this time and on the evidence provided, housing supply in excess of five years.*"
15. The situation has moved on from that considered in the Muckle Gate Lane decisions and the Council has provided updated delivery programmes for each of the SUEs. The Council stated at the Hearing that these delivery programmes have taken into account the timescales raised by the Inspector in the Muckle Gate Lane.
16. I note that in relation to the West of Loughborough SUE that the delivery programme allows two months (February and March 2018) between the completion of the site preparation and the completion of the first phase of housing delivery. The table at paragraph 2.28 of the Council's Statement 2 of 2 indicates that 60 dwellings would be completed in 2017/18. I acknowledge that the timescale for these completions has been based on information from the house builder. However, taking into account that 120 houses are to be completed on this site for each of the 3 subsequent years the completion of 60 dwellings by the end of March 2018 does not appear to be wholly realistic.
17. I have no reason to dispute the delivery programmes in relation to the 2 other SUEs. The Council's assessment is that there would be 6117 houses delivered in the five year period with a surplus, over a requirement of 5813, of 304 houses. Consequently, even based on a worst case scenario that the 60 dwellings noted above are not completed in 2017/18, it is reasonable to conclude, based on the evidence before me, that the Council can demonstrate a housing supply in excess of 5 years.
18. As I have found that the Council can demonstrate a 5 year supply of housing land the relevant policies for the supply of housing should be considered up-to-date in relation to paragraph 49 of the Framework.

Character and appearance

19. The Seagrave Conservation Area Character Appraisal (CA) was adopted in 2010. It states that the definition of special interest of SCA includes the variety of farmsteads and modest cottages, the extent of open green space all around the village, the juxtaposition of houses with the green space and the green verges.⁴
20. The appeal site is on the edge of the settlement of Seagrave. The village is nestled in a fairly steep sided valley. As such, when approaching Seagrave from the direction of Sielby/Paudy Crossroads the majority of the village is not apparent with the primary school being a notable exception. The appellant contends that the site is bounded on all sides by existing development and should be seen as infill development in the village. I acknowledge that there are large dwellings on Pond Street adjacent to the

³ APP/X2410/W/15/3049408 & APP/X2410/W/15/3133041

⁴ Page 22 of CA

appeal site, that there is a recently constructed dwelling to the south of the site, that there are dwellings on the opposite side of Swan Street and that there is a brick stable to the west of the site.

21. At my site visit I noted that the boundary hedges to the appeal site and the trees in the verge do restrict views across the site. However, the land to the west of Pond Street fronting Swan Street, including the appeal site, is readily distinguishable as agricultural/equestrian land and open in character. In this context the paddock conveys a sense of space and helps to create an attractive entrance to the village and SCA. As such, the site forms part of the integral green space and the significance of SCA and the countryside setting of the village. Moreover, the adjacent residential development is not readily apparent when approaching the village from the direction of Sielby.
22. The 3 houses would be arranged in a linear form with a new access drive in front of the houses. They have been designed to appear as a farm complex i.e. farm house and associated agricultural buildings. However, the introduction of substantial new built form into the paddock would appreciably erode the openness of the site with the development extending across the majority of its Swan Street frontage. The development would be seen in views along the shared surface driveway and from Swan Street as part of the existing hedge is shown to be removed. Furthermore, the buildings would be apparent above the boundary hedges especially when the trees in the verge are not in full leaf. Consequently, the proposal would erode the character and appearance of SCA and the surrounding area.
23. I acknowledge that the architectural styles of the dwellings and the materials would be appropriate to SCA and the surrounding area. However, the lack of harm in these respects is a neutral consideration and does not outweigh the harm that I have identified.
24. Therefore, taking all the above points into consideration, the proposed development would have a negative impact on the character and appearance of the surrounding area and SCA. Thus, it would fail to preserve or enhance the character or appearance of SCA and the significance of the designated heritage asset would be harmed. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect in accordance with S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
25. In the language of the Framework, the harm the proposal would cause to the significance of SCA would be less than substantial on the basis that the impact of the proposal would be relatively localised in relation to the whole SCA. However, a finding of less than substantial harm should not be equated with a less than substantial planning objection.
26. Paragraph 134 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. The economic and social benefits arising from the supply of 3 dwellings and their occupation and construction works can be treated as public benefits. However, these limited benefits would be insufficient to outweigh the harm to the SCA. I reach that conclusion not least because similar benefits could be secured by a proposal that did not have the harmful impacts identified.
27. In conclusion the proposal would harm the character and appearance of the surrounding area and the significance of SCA. It follows that it would be

contrary to LP Policies ST2, CT/1 and CT/2 and CS Policies CS 11 and CS 14 which, amongst other things, seek to protect the character and appearance of the countryside and conserve historic assets.

Suitable location

28. The Framework at paragraph 7 identifies three dimensions to sustainable development: economic, social and environmental. Paragraph 55 advises that to promote sustainable development in rural areas, housing should be located where it would enhance or maintain the vitality of rural communities and that (with certain identified exceptions) local planning authorities should avoid new isolated homes in the countryside. For example where there are groups of smaller settlements, development in one village may support services in a village nearby.
29. As stated above, Seagrave is identified as a small village or hamlet within CS Policy CS1. Based on the evidence before me, no such specific need for the proposal has been identified by a Neighbourhood Plan or other community-led strategy and thus the proposal would not accord with the locational strategy aims of CS Policy CS1. The supporting text to CS Policy CS1 states that the people who live in these villages rely on larger settlements for their day-day needs and these villages have much less potential to provide for a sustainable community and are therefore poor locations for new development.
30. At the Hearing there was no dispute that there is a public house, primary school and village hall within Seagrave. I was informed that the village shop has been shut for some time and that it is now a beauty salon. There are a number of local employment opportunities including those in Sielby. There is also an hourly bus service that runs from Loughborough to Thurmaston, through Seagrave and Sielby, between the hours of 7.00 and 18.00 on Mondays to Saturdays.
31. Consequently, there are some facilities and services within walking and cycling distance of the site and the bus service would provide an alternative to the private motor car to access services and facilities in the wider area. As such, I do not consider that the dwellings would be isolated in terms of paragraph 55 of the Framework. However, based on the evidence before me, I consider that for some of the time and for convenience reasons, occupiers would still tend to be dependent on travel by the private car to access services and facilities in the wider area.
32. The appellant considers that the proposal would enhance the vitality of the rural community and support the local services and facilities. There would also be other economic benefits associated with the proposal including the provision of construction jobs, some additional local spend and New Homes Bonus and community charge receipts. However, the contribution 3 new dwellings would make to the vitality of the rural community and the support they would give to services in nearby towns and villages would not be significant.
33. I have found that future occupiers would tend to be dependent on travel by the private car. Furthermore, the proposal would harm the character and appearance of the surrounding area and it would result in less than substantial harm to the character and appearance of the SCA that is not outweighed by the public benefits of the scheme. As such it would conflict with the development plan and would not accord with the environmental dimension of sustainable development. 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. As such, the site is not a suitable location for housing, having regard to the development plan and the Framework.

Other Matters

34. I have taken into account the numerous sites that have been approved or built and the appeal decisions referred to by both parties in relation to the accessibility of the sites and the 5 year housing land supply position. The circumstances of each site and proposal vary in terms of their accessibility and the 5 year housing land supply position is constantly changing over time. In any case, I am required to consider the appeal proposal on its own merits.

Conclusion

35. In accordance with S38(6) of the Planning and Compensation Act 2004, and as set out in paragraph 12 of the Framework, development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In this case there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
36. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nigel Harris	Enigma Planning
Gerry McHugh	McHugh Construction

FOR THE LOCAL PLANNING AUTHORITY:

Nigel Wright Dip TP MRTPI	Planning Officer
Richard Brown	Principal Planning Officer

INTERESTED PERSONS:

Clifford Walker	Parish Council
Vicky Anderson	Local Resident
Jon Ingleton	Local Resident

DOCUMENTS

- 1) Updated Extended Phase 1 Survey – B J Collins (August 2016)
- 2) Great Crested Newt Mitigation Strategy – B J Collins (August 2016)

PLANS

- A) Internal Swept Path Analysis and Potential Turning Area - Drawing No F15003/01