
Appeal Decision

Hearing held on 1 February 2017

Site visit made on 1 February 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/W1850/W/16/3156410

Woods Transport Yard, Linley Green, Herefordshire WR6 5UB

- 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 Jon Tainton, John Samuel Ltd against the decision of Herefordshire Council.
 - The application Ref 160305, dated 24 January 2016, was refused by notice dated 23 March 2016.
 - The development proposed is 5 no. 5 bed dwellings, each with double garage and associated change of use.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would result in a sustainable form of development having regard to development plan policy and the prevailing character of the area.

Reasons

3. The appeal site, approximately rectangular in shape and about 0.433 hectares in size, lies on the eastern side of the C1136 road some 3.7 km south east of Bromyard. The site comprises a transport and storage yard with agricultural land to the east, an area of ancient woodland on the other side of the road to the west and a disused railway line, now well wooded, to the south. The nearest residential properties are a Grade II listed house about 50 m away alongside the road to the north and a bungalow a further 50 m or so away.
4. The proposal is to demolish the two existing buildings on the site, remove the old vehicles, containers and other materials and to construct a group of five detached executive style houses served by a short private drive.
5. The site lies within the rural area outside Hereford and the market towns as defined by the Herefordshire Local Plan Core Strategy 2015 (HLPCS). As such, Policy RA3 applies, which restricts housing development to certain limited categories, none of which apply in this case. However, there is no dispute that the Council cannot demonstrate a five year supply of deliverable housing sites (the latest figure being only 4.39 years¹), and consequently policies for the

¹ Including a 20% buffer due to the persistent under delivery of housing in the county

supply of housing in the HLPCS are considered out of date. Policy RA3 can therefore only be accorded limited weight in relation to the appeal site.

6. The HLPCS seeks to deliver 16,500 new homes across Herefordshire between 2011 and 2031, of which 5,300 are to be delivered in rural settlements. Policy RA1 states that these are to be broadly distributed across the county, and in the light of the housing land supply position the Council positively encourages developers to come forward with suitable and sustainable housing sites².
7. Policy RA2 sets out the strategy for sustainable housing growth in rural areas, and defines in figures 4.14 and 4.15 the settlements where housing will be supported. These include Linton and Bringsty to the north of the appeal site but not Stanford Bishop to the south. However, the criteria for selection in these lists are not clear and, given the housing land supply position, the lists should not be seen as exclusive. There is no reason why Stanford Bishop could not also accommodate some housing if there are suitable sites.
8. Importantly, Policy RA2 also sets out four criteria to be met by housing proposals in the rural area. The appellant did not criticise these criteria at the hearing and they do not conflict with the principles in the National Planning Policy Framework (NPPF). Consequently, notwithstanding the housing land supply position and the views of a previous Inspector³, this part of the policy should continue to be given significant weight.
9. Rural Herefordshire is notable for its dispersed settlement pattern and the area around the appeal site is no exception. The site lies on the boundary of two parishes, Linton to the north and Stanford Bishop to the south. Linton parish covers a large area but does not include an individual settlement with that name. It comprises widely dispersed housing including a scattered settlement around Bringsty Common and, nearest to the appeal site, about 250 m away, Linley Green, a group of houses around a staggered crossroads. Stanford Bishop parish covers another scattered community with its main concentration of houses in a group about 1 km away.
10. There are no facilities or services located near the appeal site and few in the whole of Linton or Stanford Bishop parishes. The latter has an isolated church, roadside public house⁴ and small village hall whilst the nearest bus services run along the A44 well to the north. It was agreed at the hearing that the whole area looks to Bromyard as its local service centre with children taken by bus to secondary school there or Brockhampton Primary School just off the A44. Given the distance to the town any new housing located in the two parishes under Policy RA2 would rely to a large extent on the private car. This factor in itself should not therefore be a determining factor in this appeal.
11. However, this does not mean that housing is appropriate anywhere. In the absence of neighbourhood plans and ahead of the Rural Areas Development Plan Document which might define settlement boundaries the only guidance is that in Policy RA2 which states that proposals should be located 'within or adjacent to the main built up area' of each settlement. In the context of Linton and Stanford Bishop this can only mean within or adjacent to existing groups of housing, and the proposal fails this test⁵. The nearest scattered group, Linley

² Interim position statement on housing delivery September 2016, also July 2016 letter calling for rural sites

³ Paragraph 7 of decision APP/W1850/W/3140016 relating to a scheme for 90 dwellings at Clehonger

⁴ Which also carries limited grocery supplies

⁵ The argument that the site is adjacent to the parish boundary of Linton is not relevant

Green, lies some distance to the north of the site with that at Stanford Bishop even further away to the south. The two individual properties along the road nearby do not justify further isolated houses in this countryside location.

12. Policy RA2 also requires that the design and layout of housing proposals should reflect the size, role and function of each settlement and be appropriate to their context. Whilst five executive style houses on the site would form an attractive group in themselves, they would not be consistent with the character of the existing development in the two parishes which comprises scattered dwellings and informal groups of individual houses. There are no other small cul-de-sacs of similar design houses in the vicinity and they would consequently appear out of place as well as isolated in this rural context.
13. Policy RA2 also seeks to ensure schemes generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand. The appellant provided evidence that 70% of general market housing in the area should have three bedrooms or more, but the proposal would only provide five bedroom houses, and not a mix. In the absence of detailed evidence of housing needs in the two parishes it is not clear that the proposal would meet local housing requirements effectively.
14. The main benefit of the proposal is that it would reuse a previously developed site, thus complying with a further criterion in Policy RA2 to make best use of such sites wherever possible. The site includes two large open sided buildings and has been a haulage yard or transport depot for many years, a use confirmed by the issue of a certificate of lawful use or development (CLUD) in 2007. The CLUD states that this use includes 'use of the building for vehicle repairs and use of the land for parking and storage of vehicles' but not 'use of the land or buildings as a scrapyard for breaking of vehicles'.
15. The site currently has a very untidy appearance and, apart from its internal trackways, is covered with old vehicles and waste materials of all kinds. This includes piles of tyres, building materials, household waste, furniture, office equipment, bikes, tanks, sanitary ware, skips and various containers. The two buildings on the site are full of these materials as well as the open land. The numerous rusting agricultural, construction and other vehicles on the site appear abandoned rather than stored, with no sign of any vehicle repair facilities and little sign of any items on site being suitable for re-shipment.
16. There was no activity taking place at the time of the site visit and the evidence at the hearing was that use of the site has declined significantly in recent times. The appellant's agent said that the current use of the site is about 5% of its use at its peak, that the last delivery was six months ago and that vehicle movements have amounted to about one every two months for the last three years. A local resident said there had been little activity for three years.
17. The use of the site may have changed somewhat since 2007 and with the build-up of abandoned vehicles and other materials there is now little space for a conventional haulage yard or transport depot operation to recommence, nor space for vehicle repairs or parking or storing more vehicles. Indeed, the use is now encroaching onto land to the east outside the CLUD site and onto the roadside near the site entrance. Clearing the site and laying it out to allow the lawful use to recommence in an intensive way would be a major operation and may involve new hardstandings and/or buildings which could itself require planning permission. Given the investment required and the potential need for

other consents it is not certain that the site would generate frequent heavy goods vehicle movements in future as claimed by the appellant. On the other hand, the traffic generated by five houses with double garages would amount to a significant increase over that currently visiting the site.

18. The appeal site is an eyesore when seen from close quarters along the road with derelict vehicles and containers placed hard up along the boundary hedge and within the woodland towards the old railway line. In addition, at the time of the site visit, an old trailer and truck appeared abandoned on the roadside. However, with a hedgerow along the road to the north and along the northern boundary of the site, together with woodland on the opposite side of the road and along the old railway line, the visual impact of the site in the wider countryside is minimal. The impact of the site is essentially limited to passers-by on the road and has little effect on the setting of the listed building to the north which is separated by a wide field and further hedgerow. The site has no material impact on the large Malvern View Leisure Park and its 250+ holiday homes as this lies on the far side of the thickly wooded railway line.
19. It is recognised that a significant number of dwellings come forward on small sites in the county and the HLPSCS assumes 50 dwellings per annum will be built on windfall sites in the rural area. The proposal would contribute to these housing sources. However, there is no evidence that windfall sites are failing to come forward, on the contrary new permitted development rights to convert rural buildings are delivering many homes in the countryside with a minimal impact on the environment. The potential for occupiers to work from home and the new homes bonus would apply wherever houses are built and are not an advantage of this particular scheme.
20. The appellant has drawn attention to two precedents in support of the scheme. However, the recent permission for a dwelling at Acton Green⁶ relates to a site within the built up area of the settlement which is grouped around a crossroads. In addition, as a modest chalet bungalow, the proposal was judged to complement the existing housing in the area. The second case is more relevant, a permission for eight dwellings on a brownfield site in the open countryside near Upper Sapey⁷. However, the settlement pattern in that area is different, details of the previous use and appearance of the site are not provided and the permission dates from 2004 when neither the policies of the NPPF or HLPSCS were in place. These factors are sufficient to distinguish that case from the current scheme.

Conclusion

21. Redeveloping the site with five detached houses would remove the existing negative visual impact but its current unkempt appearance is the result of the landowner's own actions and therefore does not justify the proposal. The impact of the site is relatively localised and its appearance could be improved in any event. Secondly, the likelihood of the lawful haulage yard/transport depot use being resumed in an intensive way is uncertain. The other benefit of the proposal is the provision of five houses towards the significant shortfall of housing in the county and the social and economic benefits that would flow from their construction.

⁶ Reference 160530

⁷ Reference DCNC2004/1529/O

22. However, the proposal would comprise isolated housing detached from the main built up areas of Linley Green and Stanford Bishop. In addition, the design and layout of the scheme with five executive style houses in a small cul-de-sac would not reflect the character of the existing scattered development in the area and consequently would appear out of place. Thirdly, by comprising only five bedroom houses the proposal would not demonstrably meet the housing needs of the local area, thus reducing the social benefits of the scheme. These three objections reflect three of the criteria in Policy RA2 whilst the use of previously developed land reflects one criterion. The wording of the policy is that all the criteria should be met.
23. For these reasons the proposal would not result in a sustainable form of development having regard to development plan policy and the prevailing character of the area, and as explained above would conflict with Policy RA2.
24. When considered together the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. Whilst remediating contaminated land and reusing previously developed land are supported by paragraphs 109 and 111 of the NPPF, these are not listed as special circumstances justifying new isolated homes in the countryside under paragraph 55. The need to boost the supply of housing is to be achieved by the pursuit of sustainable development which combines economic, social and environmental roles. The three objections which have been identified in this case mean that the proposal does not comprise fully sustainable development and consequently the presumption in favour of such development does not apply.
25. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tim Watton MRTPI, RPS Planning

Roger Page, Page Swinford Partnership

Gary Swinford, Page Swinford Partnership

FOR THE LOCAL PLANNING AUTHORITY:

Fernando Barber-Martinez MRTPI PIEMA, Senior Planning Officer

Patricia Morgan, Councillor, Bishops Frome & Cradley ward

Nigel Shaw, Councillor, Bromyard Bringsty ward

INTERESTED PERSONS:

Michael Venables, Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Clehonger appeal decision APP/W1850/W/15/3140016

Certificate of Lawful Use or Development DCNC2007/2433/U