

Appeal Decision

Site visit made on 20 February 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 14 March 2017

Appeal Ref: APP/G2435/W/16/3164081
Measham Road, Snarestone DE12 7DA

- 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 J. A. Davis Contractors Ltd against the decision of North West Leicestershire District Council.
 - The application Ref 16/00364/OUT, dated 30 March 2016, was refused by notice dated 1 June 2016.
 - The development proposed is residential development with new access.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application is in outline; with all matters except for access reserved for future consideration. A layout plan has been submitted and I will treat this as indicative only.
3. At the time of the determination of the application by the Council the appellants were advised that there was no capacity within *River Mease Developer Contribution Scheme Window 1* (DCS1) for further contributions. In response to that the appellant submitted a scheme for non mains drainage to be considered. However, the revised scheme was not received in sufficient time prior to the determination of the application for it to be taken into account by the Council. The Council's statement goes into some detail regarding the issue of a non mains drainage solution and therefore I do not consider that any parties would be prejudiced were I to take such a solution into account in my determination of the appeal. Also since the determination of the appeal the *River Mease Development Contribution Scheme Window 2* (DCS 2) has been adopted by the Council. Therefore I will also have regard to this in my decision.

Main Issues

4. The main issues are:
 - i) whether the proposal would provide a suitable site for housing with particular regard to its accessibility
 - ii) The effect of the proposal on the character and appearance of the area
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- iii) the effect of the proposal on the setting of the adjacent Listed Building, 2 Main Street and the Snarestone Conservation Area
- iv) the effect of the proposal on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)

Reasons

Policy

5. The development plan for the district is the North West Leicestershire Local Plan 2002 with alterations 2004 and 2005 (the LP). Both parties refer to appeal decision APP/G2435/W/15/3005052 where the Inspector found that housing land supply policies including saved Policies S2 and S3 of the LP are out of date both with regard to their consistency with the requirements of the National Planning Policy Framework (the Framework) and a lack of five year housing land supply. As a result the Inspector gave the Policies very limited weight.
6. At the time of the determination of the application the subject of this appeal by the Council it was unable to demonstrate a five year housing land supply. However, according to the Council the situation has since changed. It has submitted its statement of five year housing land supply as at 1st October 2016 which demonstrates a 6.69 year supply with a 5% buffer and a 5.86 year supply with a 20% buffer. These figures have not been disputed by the appellant and from the information supplied I see no reason to not accept the position they demonstrate. While therefore housing Policies may be up to date with regard to the five year housing land supply their inconsistency with paragraphs 47 and 109 of the Framework, as identified by the previous Inspector still remain. Consequently I give Policies S2 and S3 of the LP limited weight.
7. The emerging North West Leicestershire Local Plan Publication Version 2016 (the LPPV) was examined in January 2017 and is awaiting the Inspectors report. As a result in accordance with paragraph 216 of the Framework I give the emerging Policies limited weight.

Accessibility

8. The appeal site is outside of the Development Limits of Snarestone as defined on the LP Proposals Map. Saved Policy S3 of the LP precludes development outside of the development limits unless it meets one of six criteria. Emerging Policy S3 of the LPPV repeats this restriction but increases the types of development that may be appropriate in the countryside. However, the appeal proposal would meet none of the criteria and therefore would be contrary to both Policies.
9. Paragraph 55 of the Framework specifically addresses the provision of housing in rural areas. It states that housing should be located where it will enhance and maintain the vitality of rural communities by avoiding isolated homes in the countryside unless there are special circumstances. The Framework does not define the meaning of 'isolated'. In my experience there are two main aspects to be assessed when considering 'isolation', these being whether the appeal site is physically isolated relative to settlements and other built

development and whether it is functionally isolated relative to services and facilities.

10. The appeal site is located close to the development limit of Snarestone. However, there would be a significant gap between the proposed dwellings and the adjacent properties on Measham Road and Main Street. As a result it would have open land on three sides. While there is some sporadic development on the opposite side of the road to the appeal site this is limited and mostly well hidden by mature landscaping and sited some distance from the proposed houses. Therefore, whilst the proposed dwellings would be close to a settlement, they would appear physically isolated from it.
11. The scheme would result in the extension of the existing footway on Measham Road to the proposed access to the dwellings. Consequently, future occupiers would be able to walk into the adjacent village. Snarestone is classified under Policy S2 of the LPPV as a "Small Village" which is defined as a settlement with very limited services and where development would inevitably require the use of private vehicles to access those facilities. I saw that services are limited to a primary school, church, public house and recreational ground. Therefore, while in walking distance, the village would not cater for the everyday needs of future residents of the appeal proposal. For everyday needs, a future resident of the appeal scheme would need to travel further. The nearest shop would be within Appleby Magna about 4km away which also has a GP surgery and small scale employment sites. However, access on foot to both would require a long walk along country lanes largely devoid of pavements and lighting.
12. Given the distance, inconvenient and in some respects unattractive walking environment, I consider it highly likely that future residents would be predisposed to rely on a private car to access everyday services and facilities. Furthermore, although a bus stop would be opposite the appeal site the Council confirms that one service operates only every two hours. The infrequency of the service means this is unlikely to result in travel by bus being a regular alternative to private car use. Cycling could be an option for some future residents, but not all, depending on mobility and proficiency thus reducing the reliance that can be placed on this mode of transport as an alternative to a private car.
13. As a result future occupiers would be likely to have a high dependence on the use of motor vehicles to access the local services which would be contrary to one of the core planning principles of paragraph 17 of the Framework to make the fullest use of public transport, walking and cycling. Moreover, the proposal would conflict with paragraph 7 of the Framework to move towards a low carbon economy. I note that the Highway Authority share this view.
14. Whilst I recognise that there is generally a greater reliance on the private car in more remote rural areas and this is recognised within the Framework, it remains the case that there would be a lack of sustainable transport choices available to enable future residents to conveniently access such facilities. There would be a lack of relationship between the site and the nearest settlements able to provide basic services and in this respect the dwelling would be functionally isolated.
15. Leading on from this I do not consider there to be special circumstances to justify the erection of isolated dwellings, including those cited in the Framework namely that it would be essential for a rural worker; would secure the future of

a heritage asset; would re-use a redundant or disused building or would be of exceptional quality or design. I have also seen no evidence to suggest that there would be a local need for the dwellings as proposed.

16. Paragraph 55 of the Framework refers to development in small villages potentially supporting services either in the immediate environment, or in a village nearby. However, I am not satisfied that the location of the appeal site is well placed by way of public transport connectivity, to the available facilities in nearby settlements and four dwellings would in any event, make a limited contribution in this regard.
17. For the reasons above therefore I conclude that the proposal would not provide a suitable site for housing with particular regard to its location. It would therefore be contrary to paragraphs 7, 17 and 55 of the Framework, saved Policy S3 of the LP and emerging Policy S3 of the LPPV.

Character and appearance including Setting of Listed Building and Conservation Area

18. Snarestone forms a small village mainly formed by linear development along Main Street surrounded by open countryside. Most of the western part of the main area of development is designated a Conservation Area (CA). Here the large detached buildings are mostly sited at the back edge of the footway with substantial plots extending to the rear. Particularly on the southern side of the road there are generous gaps between the houses which allow views through to the surrounding countryside providing the setting for the CA contributing to its significance. Buildings to the rear of the dwellings are small and subservient in nature to the principle building fronting Main Street. As a result the character and appearance of the area is a historic rural village in an agricultural landscape.
19. 2 Main Street to the north of the appeal site is a Grade II Listed Building sited on the back edge of the footway. It is sited in a large plot which has little delineation to the surrounding open countryside. Farm buildings to the rear of 2 Main Street are subservient to the main house and the historic connection between the village and the agricultural landscape is thus particularly evident here.
20. The appeal site forms an area of rough grass. While the high hedge to the road gives it a degree of enclosure it is more open to the south giving open views into the site from Measham Road. As a result the lack of buildings on the site makes it unobtrusive in the rural landscape but it nevertheless contributes significantly to the openness and rural character of the area. Furthermore, it makes a considerable contribution to the extensive, open rural setting of both the CA and No 2.
21. Consequently the introduction of four houses on the appeal site, together with the removal of part of the hedge for the new access, would have significant visual impact in the countryside location. They would create a more continuous and intensive built frontage which would encroach further into the rural area reducing the openness particularly as the site adjoins fields and has extensive views across open countryside. This would be reinforced through the introduction of further residential paraphernalia such as washing lines, car parking and refuse bins and be accompanied by further traffic generation and

- more intensive domestic activity in and around the buildings all of which would detract from the rural character of the area.
22. As a consequence of the development of the site the agricultural character and appearance of the land surrounding the CA would be eroded and result in modern development intruding on the views towards the historic core. The appeal site is some way from No 2, and there would be an area of open space intended to preserve views towards the built environment. Nonetheless, as the setting of the building is extensive then the proposed houses would not only change the character of that agricultural setting but also reduce the open rear aspect both of which would considerably dilute its significance. Furthermore, the proposed houses would compete with the subservient nature of the farm buildings to the rear of No 2. As the harm would result from the principle of houses on the site then the imposition of a condition requiring the submission of a design code would not overcome that harm.
23. I have found that the proposal would be harmful to the setting of a Listed Building and the Snarestone CA and the rural character and appearance of the area contrary to local and national policy and I give significant weight to this harm. In the parlance of the Framework the harm to the designated heritage assets would be less than substantial. Nevertheless, I must have special regard to the desirability of preserving the setting of the assets and any harm should require clear and convincing justification. In accordance with Paragraph 134 of the Framework this harm should be weighed against any public benefits of the proposal.
24. Although the site is not currently needed in order to ensure an adequate supply of deliverable housing sites, there is nothing in the Framework to suggest that the existence of a five year supply should be regarded as a restraint on further development. Furthermore, I do not dispute that these could be well designed with energy efficient construction methods. However, a net increase of four dwellings in a location that would not be conveniently accessible by modes of transport other than the car would be a small contribution so I afford this benefit only limited weight.
25. In addition, the construction of the dwellings would derive some economic benefits but this would be for a limited time. Furthermore, given the small scale of the development, the contribution to the local economy from the spending power of future occupants is unlikely to be significant. The Framework notes that heritage assets are an irreplaceable resource and that great weight should be given to their conservation. Therefore the benefit of the additional housing would not in this instance outweigh the resulting harm to the setting of the CA and the Listed Building.
26. For the reasons above the proposal would be harmful to the setting of the Listed Building 2 Main Street and the Snarestone Conservation Area and the character and appearance of the wider area. It would therefore be contrary to saved Policy E4 of the LP and paragraphs 7, 17, 132 and 134 of the Framework. These require amongst other things that the development should protect and enhance the natural and built environment, recognising the intrinsic character and beauty of the countryside and ensure the conservation of designated heritage assets.

Impact on SAC and SSSI

27. The site lies within the catchment area for the River Mease Special Area of Conservation (SAC). The SAC is designated for its internationally important habitats and species. A *Water Quality Management Plan* (WQMP) for the area has identified poor water quality, mainly due to high levels of phosphorous, as representing a threat to the ability of the river to support its internationally important features in a sustainable way. There is therefore a need to reduce phosphate levels in the catchment in order to avoid an adverse effect on protected species and their habitats within the SAC. Based on the evidence in the WQMP, it is clear that the foul drainage from new development contributes to the levels of phosphate in the catchment which cumulatively would have an adverse effect on the integrity of the SAC. To this end, new development is required to connect to the mains for foul drainage and to implement measures to limit surface water discharge into the main sewer. Furthermore, the DCS2 advises that all new development which contributes to additional wastewater in the SAC Catchment Area will be subject to a developer contribution, which provides for measures to reduce phosphate levels in the catchment, and thereby mitigate the effects of additional development.
28. The appellant suggests that either disposing of foul water drainage to cesspools and incorporating bypass (hydrocarbon) interceptor to surface water or connecting the proposed houses to the main sewer and taking advantage of DCS2 could be undertaken.
29. The Planning Policy Guidance (PPG) states that the first presumption is for foul drainage to be discharged into a public sewer. Where this is not feasible in terms of cost or practicality then a package sewage treatment plan could be considered. Where neither is considered feasible then a septic tank should be considered (paragraph 34-020-20140306).
30. The Council has submitted documentation that demonstrates that a mains sewer is within reasonable distance of the appeal site as considered by the Environment Agency's Operational instruction 538_06. Furthermore, the PPG states that sufficient information should be submitted to understand the potential implications of a non mains sewerage option on the water environment. The appellant has provided no information in either this respect or as to why it would not be feasible to connect to the main sewer.
31. As a result of the lack of information regarding the operation of the cesspools I cannot be sure that there would not be a harmful discharge from them into the nearby water courses due to inadequate capacity, maintenance or emptying. The site is located close to Ashby Canal SSSI, which is connected to the River Mease via a drain or culvert into the Gilwiskaw Brook just north of Snarestone and the Gilwiskaw Brook is a tributary of the River Mease. Therefore I cannot be sure that the non mains drainage solution proposed would not have a harmful effect on the River Mease SSSI and SAC.
32. Even if I were to consider the proposal on the basis of a connection to the main sewer the Council advise that there is limited capacity for contributions under DCS2 which they consider should be directed to applications considered to be in the most accessible locations in the District by means other than the motor car.

33. For the reasons above I conclude that the use of non mains drainage has not been justified and it has not been demonstrated that such a solution would not cause harm to the River Mease Special Area of Conservation and Site of Special Scientific Interest. The lack of an appropriate means of drainage or mitigation would therefore lead to cumulative harm to the integrity of the SAC and SSSI. The proposal would therefore be contrary to paragraph 118 of the Framework which seeks to conserve and enhance biodiversity.

Other matters

34. I note the appellant's comments regarding the interpretation of Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* with reference to *South Lakeland District Council v. Secretary of State for the Environment* [1992] 2 AC 141, and this has informed my reasoning above.
35. The appellant refers to the need to significantly boost the supply of housing identified in the report "Building more Homes" by the House of Lords Economic Affairs Chairman 2016. However, I must make my decision in accordance with the adopted development plan and other material considerations, in this case, the Framework.
36. I have also been referred to the approval of three planning applications which the appellant considers demonstrate that the Council is supportive of similar schemes to the appeal proposal (16/00558/OUT, 16/00683/FUL, 16/00612/OUT). However I note that the latter two proposals were both considered to be within an accessible location and the impact on the character and appearance was considered to be acceptable. Although the first one was granted contrary to officer recommendation it was considered that the one house would meet a local need. I am satisfied therefore that there are sufficient differences between the three applications and the proposal before me now in order that I may reach a different decision.

Conclusion

37. The proposal would cause harm to designated heritage assets. Along with the other harm that would arise from the location of the proposal, the potential impact on the River Mease SAC and Site of Special Scientific Interest (SSSI) and the character and appearance of the area this leads me to find that overall the scheme would be contrary to the development plan as a whole and the approach within the Framework. Consequently, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR