
Appeal Decision

Site visit made on 24 January 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 24 March 2017

Appeal Ref: APP/W1850/W/16/3159485

Land adjacent to Woodhouse Farm, Edwyn Ralph, Herefordshire HR7 4LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Johnson Brothers and Co Ltd against Herefordshire Council.
 - The application Ref 152122, is dated 14 July 2015.
 - The development proposed is described as 6 No dwellings and garages.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. During the course of the planning application the description of development was amended by the appellants (by email dated 9 May 2016). The number of dwellings was reduced to 5 and I have therefore based my consideration of the appeal proposal on the basis that the proposal is for 5 No dwellings and garages.
3. The appeal follows the failure of the Council to determine the planning application within the prescribed period. The Council has however indicated that had it had the opportunity to determine the application, it would have granted planning permission, subject to a number of conditions.

Main Issues

4. The main issues in this case are:
 - whether or not new housing in this location is acceptable having particular regard to the settlement strategy for the area;
 - the effect upon nearby heritage assets;
 - the effect upon highway safety;
 - the effect upon biodiversity;
 - whether or not acceptable living conditions would be provided to the occupiers of nearby properties, and
 - whether or not the site can be suitably drained.
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Reasons

Location

5. The appeal site is located within a central location within Edwyn Ralph. This village is located within the Bromyard Rural Housing Market Area (HMA) and is identified as a settlement within Policy RA2 of the Herefordshire Local Plan – Core Strategy (CS) where proportionate housing is appropriate. Within the Bromyard HMA, CS Policy RA1 identifies that approximately 364 dwellings will be provided between 2011 – 2031, with an indicative housing growth target of 15%.
6. CS Policy RA2 states that the minimum growth target in each rural HMA will be used to inform the level of housing development to be delivered in the various settlements identified as suitable for proportionate housing development. The Council has indicated that the minimum indicative growth target for Edwyn Ralph Group Parish which is in Thornbury Parish, between 2011 and 2031 is 13 dwellings. The Council has indicated that there is a commitment for 1 dwelling. This leaves a residual number of 12 dwellings. CS Policy RA2 further states that Neighbourhood Development Plans (NDP) will allocate land for new housing. Where there is no NDP, as is the case for this village, and no settlement boundary has been defined, the CS makes it clear that applications for residential development in the identified settlements will be assessed against their relationship to the main built up form of the settlement.
7. The Parish Council and local residents have drawn my attention to a settlement boundary for the village which excludes the appeal site. However, this boundary formed part of the Malvern Hills District Local Plan which no longer forms part of the development plan for the area. Accordingly this boundary has had no bearing in my consideration of the appeal proposal.
8. The appeal site comprises part of an agricultural field located on the southern side of the B4214. The built form of the village is largely focussed on the northern side of the road, with linear development being a characteristic of the area. The southern side of the road is largely undeveloped apart from buildings at Wood Farm, adjacent the appeal site and a bungalow to the west which are located close to the road. The Manor is accessed from the road via a long drive and is located at a lower level than the appeal site. It is not readily visible from the road.
9. Whilst the appeal site is located close to existing development within the village, I find that the proposed layout, with the exception of plot 1 would not reflect the existing linear pattern of development. The 4 plots to the rear of the site would extend beyond the existing built form of this part of the village and would intrude into the open countryside. An area of agricultural land would remain between the road and these dwellings and I find that this part of the scheme would not relate well to the established built form of the village. In this regard I find that there would be conflict with CS Policy RA2.
10. However, the Council has indicated that it is unable to demonstrate a 5 year supply of deliverable housing sites with a 20% buffer. In such circumstances, the National Planning Policy Framework (the Framework) advises at paragraph 49 that relevant policies for the supply of housing (in this case CS Policy RA2) should not be considered up-to-date. Paragraph 14 of the Framework states that where the development plan is absent, silent or relevant policies are out-

of-date, permission should be granted for development proposals unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies in the Framework indicate development should be restricted.

11. Paragraph 49 of the Framework advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Sustainable development is identified as having 3 roles economic, social and environmental, as set out in paragraph 7 of the Framework. These roles are mutually dependent and should not be undertaken in isolation.
12. There would be economic benefits associated with the proposal, as recognised by the Council in its appeal statement, including the creation of jobs during the construction phase and the support the intended future occupiers would be likely to give to nearby services and facilities. Although Edwyn Ralph does not have a shop or local facilities, it has been recognised by the Council as being suitable for new housing development. Furthermore, it is reasonably close to Bromyard where there are a range of services and facilities that the intended future occupiers of the scheme would be likely to support. The proposal would make a contribution to the supply of housing in an area where there is a recognised shortfall. These matters comprise social benefits in support of the proposal.
13. The environmental role of sustainability includes protecting and enhancing our natural, built and historic environment. The appellants submit that the site would be landscaped and there would be opportunities to enhance biodiversity upon the site. Whilst such matters would comprise environmental benefits, I am concerned that the new dwellings, with the exception of plot 1, would intrude into a largely undeveloped area of countryside. The creation of a single access to serve the proposed dwellings, set back from the road, would introduce an alien, suburban form of development into this rural area. This would be out of keeping with, and harmful to the character and appearance of the area. The scheme would not protect or enhance the natural or built environment of the area.
14. In light of my findings, the proposal would not conserve and enhance the environmental assets that contribute towards the settlement pattern of Edwyn Ralph. This would result in conflict with CS Policy SS6, the local distinctiveness objectives of CS Policy SD1 and the core planning principle of the Framework relating to character. There would also be conflict with the environmental role of sustainability.

Heritage Assets

15. To the south west of the appeal site is The Manor, a grade II listed building. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

16. When considering the impact of a proposed development on the significance of a designated heritage asset, which in this case is The Manor, paragraph 132 of the Framework advises that great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
17. Mindful of my statutory duty, I consider that The Manor derives a degree of its significance from the open fields around it. Whilst this property is well screened from the appeal site, and there is limited intervisibility, the development of the site with new dwellings would have an impact on the setting of this heritage asset. I do not share the Council's view that such impact would be neutral; the loss of open fields around the building would be likely to have an adverse impact on the significance of the setting of this heritage asset. However, I agree with the Council that the harm that would be caused would be less than substantial. In such circumstances, paragraph 134 of the Framework states that such harm should be weighed against the public benefits of the proposal.
18. The appellants consider that the proposal would protect the setting of The Manor and has not advanced public benefits in support of the scheme. Notwithstanding this, it is clear that the provision of new housing, in an area where there is an identified shortfall in the supply of housing land is a public benefit which weighs in favour of the proposal. The provision of construction jobs, as recognised by the Council is a further public benefit. However, against this, I have found that harm would be caused to the character and appearance of the area. Such harm would significantly and demonstrably outweigh the other public benefits identified.
19. Given my findings, I conclude that the proposal would not preserve the significance of the nearby heritage asset because of the harm that would be caused to its setting. The proposal therefore conflicts with the statutory test and with CS Policies SS6, LD1 and LD4 in this regard. There would also be conflict with the environmental role of sustainability because the proposal would not protect or enhance the historic environment.

Highway Safety

20. Concerns have been raised by local residents and the Parish Council about the impact of the proposal on highway safety. I noted that the B4214 within the vicinity of the appeal site is covered by a 30 mile per hour speed limit. The proposal would include visibility splays at the access into the site and whilst the access road would slope up to the public highway, I am satisfied that vehicles exiting and entering the site would not result in harm to highway safety. This concurs with the Council's findings as set out in its statement of case.
21. Whilst noting concerns that speeding is an issue along this stretch of road, I have not been provided with substantive evidence to demonstrate this. Furthermore, it has not been demonstrated that existing access points onto this road have resulted in harm to highway safety. I am therefore only able to attach limited weight to this matter in my consideration of the proposal.

22. In terms of car parking provision, there would be space within the curtilage of each of the new houses for vehicles to park. The Council consider that the parking proposed would be acceptable and would comply with CS Policy MT1. I have no reason to reach a different conclusion to the Council in this regard.

Biodiversity

23. I note the representations made that the proposed scheme would have an adverse effect upon biodiversity in the area. However, in the absence of substantive evidence to demonstrate otherwise, and having regard to the appellants' Protected Species Survey Report, I have no reason to reach a different conclusion to the Council's Ecologist that the proposal raises no substantive biodiversity issues. The conservation and enhancement of biodiversity could be controlled by way of a suitably worded planning condition in the event that the appeal was allowed. I conclude that there would be no conflict with CS Policy LD2 or the Framework in this regard.

Living Conditions

24. I have considered the argument that the proposal would result in harm to the living conditions of nearby occupiers. However, I observed that the appeal site is at a lower level than dwellings on the opposite side of the B4214 and at a higher level than The Manor to the rear of the site. There is a mature landscaping screen between the site and The Manor, and a mature hedge screen along the boundary with the highway. The new dwellings would be sited some distance from existing dwellings. Taking these matters into account, I am satisfied that the proposal would not have an adverse effect upon outlook or privacy.
25. Vehicle headlights exiting the site would be unlikely to have a harmful effect upon living conditions of the occupiers on the opposite side of the road, given the distance of front windows from the access, and existing boundary treatment along the boundary with the B4214. Matters including lighting of the site could be controlled by way of a suitably worded planning condition.
26. In light of the foregoing, I conclude that the living conditions of nearby occupiers would not be adversely affected by the proposal. I concur with the Council that there would be no conflict with Policy SD1 of the CS in this regard.

Drainage

27. The appellants have indicated that the scheme would utilise a package treatment plant for foul sewage and a sustainable drainage system would be incorporated for surface water. Interested parties have expressed concern regarding the drainage of the proposal; however, I note that Welsh Water has not expressed concern. Such matters could be controlled by suitably worded planning conditions and on the basis of the evidence before me I am satisfied that the site could be suitably drained.

Other Matters

28. Local residents have expressed concern over possible contamination of the site with anthrax. The Council's Animal Health and Welfare department have stated

that they have no records of cattle infected with this being buried on the site. In the absence of substantive evidence to demonstrate that the site is contaminated, I agree with the Council that any possible contamination of the site could be controlled by a suitably worded planning condition. However, to prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of pollution, including soil and air, as set out in paragraph 109 of the Framework, I consider that the conditions (Nos 12, 13 and 14) suggested by the Council to address this matter would need to be revised to require that a contamination survey was undertaken prior to the commencement of development. Were matters otherwise acceptable, this is an issue that I would have raised with the parties.

Conclusion

29. Paragraph 8 of the Framework makes it clear that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. There would be some economic, social and environmental benefits associated with the proposal. However, there would also be significant and demonstrable harm caused to the character and appearance of the area and the setting of a nearby heritage asset, which would conflict with the environmental role of sustainability and the development plan. The benefits advanced in support of the scheme, including the contribution the proposal would make in addressing the shortfall in the supply of deliverable housing sites, the jobs that would be created, the support the intended future occupiers would give to local services and the Council's support for the scheme do not outweigh the harm that I have identified.
30. Given that the 3 roles of sustainability are mutually dependent, I conclude that the scheme would not comprise sustainable development for which the Framework indicates there is a presumption in favour.
31. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR