
Appeal Decision

Site visit made on 2 May 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 17 May 2017

Appeal Ref: APP/R1010/W/16/3164521

Land west of Cragg Lane, Newton, Alfreton, Derbyshire DE55 5TB

- 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 Wheeldon Brothers Ltd against the decision of Bolsover District Council.
 - The application Ref 15/00653/OUT, dated 22 December 2015, was refused by notice dated 20 July 2016.
 - The development proposed is residential development of up to 80 dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all detailed matters reserved apart from the access. I have dealt with the appeal on that basis, treating the plans as illustrative only except where they relate to the access.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area bearing in mind it would be within the settings of the Newton Conservation Area (NCA), the Old Blackwell Conservation Area (OBCA) and listed buildings and unlisted buildings of merit nearby.

Reasons

4. The appeal site is a triangular field which adjoins the built up part of the village of Newton. Other than the north eastern corner of the site containing trees and shrubs it is open grass bound mainly by hedging interspersed with a few trees.
 5. The proposed development would be accessed from Cragg Lane. It would adjoin the NCA and would be visible from the OBCA on a ridge to the south of the appeal site. Both the NCA and the OBCA contain a number of listed buildings.
 6. In accordance with the duty imposed by section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving the setting of listed buildings or any features of special architectural or historic interest. Furthermore, paragraph 132 of the National Planning Policy Framework (the Framework) states that
-

when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

7. The area around Cragg Lane and Alfreton Road contains many traditional buildings with agricultural heritage. Views from Cragg Lane over agricultural land give Newton and Old Blackwell an agricultural and rural setting. Travelling from Newton along Cragg Lane the land rises to the village of Old Blackwell which sits on a ridge in the gently undulating landscape. The route along Cragg Lane between Newton and Old Blackwell affords views over the rural landscape and views of the grade II listed St Werburgh's Church. In my view the significance of both the NCA and OBCA and the listed buildings and other traditional buildings within them is derived from the special architectural and historic interest of Newton and Old Blackwell as agricultural settlements set in a rural landscape.
8. I acknowledge that the appeal site forms part of a wider site which formed the subject of Policy HOU 4 of the Bolsover District Local Plan (2000) (DLP). However, even though that plan stated the site could accommodate 130 dwellings at around 25 dwellings per hectare Policy HOU 4 of the DLP was not saved. Thus it no longer forms part of the development plan and I therefore attach little weight to it.
9. In my view, 80 new dwellings, even accepting this would be low density is a substantial development when compared to the existing built up part of the village of Newton. The proposal would therefore introduce a significant block of modern development directly adjacent to a part of Newton where there is a high concentration of traditional buildings on a main route into the village. Even with extensive landscape buffering, viewed in conjunction with the existing modern development, the proposed extension of the village into the countryside would have an urbanising effect and an inevitable modernising effect on the settlement edge.
10. Thus notwithstanding detailed design, and the assurances the development would be high quality, complementary to both modern and historic development nearby and include extensive landscape buffering, on the basis of the information provided I am not satisfied that 80 dwellings could be accommodated on the site without eroding and thus harming the landscape setting and agricultural significance of the NCA and the heritage assets within it including the grade II* listed Newton Old Hall and the grade II listed Top farmhouse.
11. Furthermore, in my view there would be a significant risk of harm to views across the rural landscape between Old Blackwell and Newton, particularly when passing by the proposed development on Cragg Lane. I am not convinced that the proposed development would not harm views to and from the grade II listed Church of St Werburgh and thus harming the rural landscape setting of the Church of St Werburgh and the OBCA and their significance.
12. In reaching these conclusions, I have considered the comments with regard to the impact of HS2 on the setting of heritage assets in the area. However, such matters will be duly considered as part of the HS2 planning process. The presence of HS2 safeguarded land in the area does not justify a development which I have found to be inherently harmful.

13. Overall, on the basis of the evidence before me, I find the proposed development would harm the character and appearance of the area and would fail to preserve the settings of the NCA, OBCA and the heritage assets within them. It would therefore be contrary to the provisions of the respective sections of the Act and would fail to accord with paragraph 132 of the Framework, which attaches great weight to the conservation of designated heritage assets and their settings. For the same reasons it would not accord with saved Policies CON 1, CON 4 and CON 10 of the DLP, which taken together, aim to ensure good design and that new development does not harm designated heritage assets.
14. That said, in the context of the significance of the heritage assets taken together, I would calibrate the harm arising from the proposed development, in accordance with paragraphs 133 and 134 of the Framework, as less than substantial. In these circumstances, the Framework requires the degree of harm to be balanced against any public benefits the development may bring.
15. I attach considerable weight to the benefit of 80 new dwellings thus contributing to housing supply in the District. I note some of these would be affordable and they would be in a location where services and employment can be easily accessed. I have also noted the appellant's good track record of delivery and that the appeal site would be delivered at pace.
16. The occupants of the proposed dwellings might work locally and support local services and there may also be employment opportunities associated with building the properties, thus resulting in further economic and social benefits. There would also be highway improvements, biodiversity benefits through landscaping and recreational benefits through improved access to the countryside.
17. I have also considered the Unilateral Undertaking which would ensure the provision of affordable housing as well as secure contributions towards healthcare, education, leisure and waste management. However, the total benefits combined, though they may be accepted as public and are substantial do not outweigh the great weight I attach to the harm I have identified to the settings of designated heritage assets and the character and appearance of the area.
18. In reaching these conclusions I acknowledge the appellants comments with regard to whether the Council is able to demonstrate a five year supply of deliverable housing land within the terms of paragraph 47 of the Framework and note that the Council state that they can currently demonstrate a five year supply. I have also noted the appellant's comments about the delivery of affordable housing and housing generally in the area. Furthermore, I have considered the various appeal decisions¹, cases² and the committee reports³ put before me.
19. However, even if I were to find the Council could not demonstrate a five year land supply I have found harm to the settings of designated heritage assets and consequently, footnote 9 from the Framework indicates that development

¹ Appeal References APP/P2040/A/14/2227522, APP/E2734/A/13/2207338, APP/M1005/W/15/3132791 & APP/M1005/W/16/3144743

² *Forest of Dean District Council v Secretary of State for Communities & Local Government & Anor* [2016] EWHC 421(Admin)

³ Council Reference 16/00530/FUL & 16/00533/FUL

should be restricted. Even if this is not the case and the second bullet point under the decision-taking section of paragraph 14 is engaged, I find the harm I have identified would significantly and demonstrably outweigh the benefits of the scheme when assessed against the Framework taken as a whole.

20. Finally, even though the majority of the proposed development would be within the Newton settlement framework as identified by saved Policy GEN 8 of the DLP, I have found conflict with saved Policies CON 1, CON 4 and CON 10 of the DLP. Thus, for the reasons given above, I find the benefits of the scheme are outweighed by the harm I have identified and thus on balance the proposal would not accord with the development plan.

Other Matters

21. I have considered the implications of the proposal on HS2 safeguarded land. However, even if the developable area of the site would not impinge on such land this matter would have a significant impact on the detailed design of any development. On the basis of the information before me, I am not satisfied that the site could accommodate the level of development proposed and satisfactorily overcome the concerns raised. However, as I have found harm to the character and appearance of the area and the setting of heritage assets, I have not considered this matter any further.

Conclusion

22. For the reasons given above, having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

L Fleming

INSPECTOR