

Appeal Decision

Site visit made on 20 June 2017

by **Paul Singleton BSc (Hons) MA MRTPI**

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

Decision date: 13 July 2017

Appeal Ref: APP/Y2810/W/17/3172726

Land to rear of Beechwood, 23 Sywell Road, Overstone, Northamptonshire NN6 0AQ

- 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 Beechwood Developments Ltd against the decision of Daventry District Council.
 - The application Ref DA/2016/0737, dated 26 July 2016, was refused by notice dated 13 October 2016.
 - The development proposed is construction of 9 No. five bedroom dwellings to include new access road.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal was submitted in the name of Mr John Harmon of Seagrave Developments Ltd whereas the planning application was submitted by Beechwood Developments Ltd. Mr Harmon has confirmed that he owns both companies and, as the right of appeal is limited to the original applicant, the appeal has been registered in the name of Beechwood Developments.

Main Issues

3. The main issues are:
 - (a) Whether the appeal site is a suitable location for the development proposed having regard to its location outside the built up area of Overstone and within a designated green wedge;
 - (b) The effect of on the safety of pedestrians and other users of the access road;
 - (c) The effect on protected species and priority habitats; and
 - (d) Whether or not the proposal would make adequate provision for affordable housing.

Reasons

Suitability of the location

4. The appeal site lies outside the built up area of Overstone and should, therefore, be regarded as being within the open countryside. An outline
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- permission, granted in 2013, for two dwellings on immediately adjacent land does not establish the principle of built development on the appeal site which is much larger and further removed from the existing limits of the built up area.
5. The Council states that it can demonstrate a 5 year housing land supply as required by the National Planning Policy Framework (Framework) and that, as at 1 April 2017, a supply of 6.3 years exists. The appellant's assessment is based upon an earlier position as at 1 April 2014 and the Council's updated figures have not been challenged. Accordingly, I find that a 5 year supply exists and that there are no grounds for treating the relevant development plan policies for the supply of housing as not being up-to-date having regard to paragraph 49 of the Framework.
 6. Policy S1 of the West Northamptonshire Joint Core Strategy Local Plan Part 1 (JCS), adopted in December 2014, seeks to concentrate new development primarily in and adjoining the principal urban area of Northampton and provides for a lesser scale of appropriate development in and adjoining the sub regional centre of Daventry. Development in the rural areas will be limited with the emphasis being on a small number of key objectives. Policy S3, which deals with the scale and distribution of housing development, identifies a provision of about 2,360 new dwellings in the Daventry Rural Areas over the plan period between 2011 and 2029.
 7. JCS Policy R1 sets out a spatial strategy for the rural areas under which development will be guided by a rural settlement hierarchy. The allocation of specific villages within that hierarchy is to be determined through Part 2 Local Plans which will allow the hierarchy to be tailored to suit local circumstances. Part 2 of Policy R1 states that residential development in rural areas will be required, amongst other things, to be within the confines of the village. Although no village boundary has been defined for Overstone the appellant accepts that the site is outside of the built up area. The proposal therefore conflicts with that part of Policy R1.
 8. The Council's evidence, that the housing requirement within Daventry's Rural Areas has already been exceeded, has not been challenged. The third part of Policy R1, which places additional constraints on development in the rural areas in such circumstances, is accordingly engaged.
 9. The site is enclosed by mature woodland on its northern, eastern and southern boundaries. I do not accept the appellant's contention that this woodland forms a natural boundary between the built-up area and the open countryside. Despite the recent felling of trees and stripping of topsoil the site remains a large and attractive area of open land which, together with the adjacent woodland, forms part of the wider parkland setting of Beechwood and Overstone Hall. It clearly forms part of the countryside rather than the urban area and the proposal would represent a major incursion of urban development into the countryside. The loss of this large open space to built development would cause significant harm to the rural character and appearance of the surrounding area.
 10. One section of the conifer trees lining the access road past Beechwood has already been removed and the appeal proposal would require the felling of the remaining conifers on the south side of the proposed access road. Although not of great individual merit, these trees form an attractive avenue within which the existing access is set. Their felling would result in the loss of that

- avenue and the enclosure that it gives to the access to the appeal site and to No. 23A Sywell Road and of the screening that the trees provide to the front garden to Beechwood. There would, therefore, be some harm to the setting of Beechwood.
11. The next section of the proposed road, running east and then south, would require the felling of all of the birch trees in the group numbered T17 to T44 on the Tree Survey Plan. Some of these have been classed as Category C but this avenue of trees and the adjacent conifer hedge make an important contribution to the setting of Beechwood and to the landscape character of the wider area. The loss of these and of the other individual, but higher category trees affected by the access road would result in substantial harm to the character and appearance of the site and its surroundings.
 12. Concerns have been raised about the risk to mature trees around the proposed access junction and along the access from Sywell Road to Beechwood. The access road and proposed sections of 'no dig' construction have been designed to minimise the loss of trees and the risk to retained trees would be minimised if the protection measures and working methods proposed in the arboricultural report are put in place. I do have concerns about the degree to which some trees within group T56 to T59 would overhang the rear gardens of the houses and the resultant risk to their long term health. The controlled lopping or pruning of individual trees in this part of the site would not, however, have a significant effect on the character of the wider area.
 13. The existing access from Sywell Road to Beechwood comprises a private driveway of single track width, framed by two gate piers set back some distance from the road. This would be replaced by a much wider and fully engineered access junction and a small section of the existing boundary wall to the road frontage would be removed to facilitate the improved junction. These changes would have a detrimental effect on the street scene and the character of this part of Overstone. I accept that the village has a largely linear character but, as the development would be hidden from the road, its layout and form would not of itself harm the character of the village.
 14. The proposal conflicts with criterion i) of the third part of Policy R1 as it would result in positive harm rather than environmental improvements to the site and does not meet any of the other criteria that would support a grant of planning permission. The development of this large area of open land would significantly reduce its contribution to the green wedge. It would, accordingly, conflict with saved Policy EN10 of the Daventry District Local Plan (2007) (Local Plan) and with Policy GN1 insofar as this seeks to preserve the countryside from unnecessary development.
 15. The proposal conflicts with Local Plan Policy HS22 which states that permission for residential development in the restricted villages will be granted provided that it is small scale and within the existing confines of the village. It also conflicts with Policy HS24 which presumes against residential development in the open countryside other than for agricultural and forestry purposes or for the reuse of an existing dwelling.
 16. The Part 2 Local Plan that will define the rural settlement hierarchy has not yet been prepared and I have no information as to the role that Overstone might play in that hierarchy. However, paragraph 16.9 of the JCS states

that, until Part 2 Plans have been prepared, the existing saved Local Plan policies will apply. Notwithstanding that they form part of a Local Plan adopted some time ago, saved Policies H22 and H24 do, therefore, have continuing validity in supporting the approved development strategy.

Highway safety

17. Although intended to be adoptable the proposed access road does not meet the Local Highway Authority's requirements for a consistent carriageway width of 5.5 metres (m) and a 2m footway on either side. This cannot be achieved along its full length and the lack of a satisfactory footway on both sides would put pedestrians at risk. The sharp bend would not meet the necessary design standards and the resultant need for larger vehicles to cross the centre line when travelling through that bend would pose a significant risk to drivers of such vehicles and other users of the road.
18. Accordingly, the proposal conflicts with Local Plan Policy GN2 (B) which requires that development should have a satisfactory means of access and with paragraph 32 of the Framework which states that planning decisions should take account of whether safe and suitable access can be achieved for all people. The Council's decision notice alleges conflict with Clause (C) of GN2 but I have seen no evidence that the proposal would have an unacceptable effect on the operation of the local highway network.

Protected species and priority habitats

19. The plans in the Ecology and Protected Survey Report dated July 2014 do not include all of the land within the red line boundary and there is some uncertainty as to whether the entire site has been surveyed. The Survey Report states that there was no evidence of badgers within 20 metres (m) of the site but this is contradicted by evidence from the adjoining landowner that there are active badger setts within and adjacent to part of the site that was not within the survey boundary. In light of this, and the Council's evidence that there are records of badger setts in the local area, there is a need for a more detailed survey to assess the risk of harm to badgers and their habitat.
20. The Council's ecologist states that there are 4 ponds within the 500m zone of influence of the site and the neighbouring land owner refers to one such pond a short distance to the south. None of these have been surveyed for Great Crested Newts and the potential for this species to be present on or near the site has not been fully assessed. Both the Council and an objector's ecological advisor consider that the initial findings of the Ecology Report warrant a more detailed reptile survey across the site.
21. JCS Policy BN2 requires development that has the potential to harm sites of ecological importance to be the subject of an ecological assessment that should demonstrate how protected species and priority habitats will be safeguarded. The scope of the survey work is insufficient to demonstrate that there would be no risk of harm to such species or habitats and the proposal does, therefore, conflict with Policy BN2. It also conflicts with Local Plan Policy GN2 which seeks to protect and enhance the environment.

Affordable housing

22. JCS Policy H2 sets out a requirement for housing development in the District's rural areas to include affordable housing provision at a level of 40% of the total number of units. The JCS was adopted shortly after the issue of a Ministerial Statement¹ to the effect that contributions for affordable housing should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 square metres. That Statement was upheld in a judgment in the Court of Appeal in 2016² and Planning Practice Guidance has been amended to reiterate that advice.³
23. The Court of Appeal judgment noted that local circumstances may justify lower thresholds as an exception to national policy and that a local planning authority may submit for examination local plan policies with thresholds below those set in the Ministerial Statement. The Council's Housing Supplementary Planning Document, adopted in July 2016, did not introduce any new policy but sought only to reaffirm the use of JCS Policy H2 as a means of establishing an appropriate level of affordable housing provision. However, it does not set out any explanation as to what local circumstances exist that would justify a departure from national policy.
24. I therefore conclude that any requirement for affordable housing as part of the appeal proposal would be unreasonable.

Other Matters

25. The proposal would provide 9 new homes which would contribute to the supply and range of housing within the District but the weight that can be given to that benefit is tempered by the evidence that the housing requirement for the rural areas has already been exceeded. The investment and employment involved in the construction of the new dwellings would provide some economic benefits. These benefits of the proposal would be of relatively modest scale and would not outweigh the considerable harm that would be caused.

Conclusion

26. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should fail.

Paul Singleton

INSPECTOR

¹ Statement by Brandon Lewis MP dated 28 November 2014

² SSCLG v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

³ Reference ID: 23b-031-20161116