
Appeal Decision

Site visit made on 14 June 2017

by B Bowker Mplan MRTPI

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

Decision date: 14 July 2017

Appeal Ref: APP/G2435/W/17/3167167

Land off Worthington Lane, Breedon on the Hill, Leicestershire

- 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 Mr John Blunt against the decision of North West Leicestershire District Council.
 - The application Ref 16/00360/OUTM, dated 24 March 2016, was refused by notice dated 16 November 2016.
 - The development proposed is erection of 27 dwellings (outline application – all matters reserved except for access).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John Blunt against the decision of North West Leicestershire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development used above is taken from the appeal form which more accurately reflects the permission sought.
4. The proposal as submitted is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis. The layout plan submitted with the planning application has been taken into account for indicative purposes.

Main Issues

5. The main issues are:
 - whether the proposed site would be a suitable location for housing having regard to development plan, national planning policy and its effect on the character and appearance of the surrounding area; and,
 - the effect of the proposal on highway safety.

Reasons

Suitable Location

6. The appeal site is located to the south of Breedon on the Hill and comprises a field that slopes upwards from north to south and gently from west to east. For planning purposes, the parties agree that the site is outside the defined 'limits to development' as defined by saved Policy S3 of the adopted Local Plan (LP). Saved LP Policy S3 lists a number of exceptions for when development on land outside the limits to development would be permitted. The proposal would not fall into any of the listed exceptions.
7. In the context of paragraph 215 of the National Planning Policy Framework (the Framework), it is also common ground that LP saved Policy S3 accords with the Framework core principle that seeks to protect the intrinsic beauty of the countryside. In addition, the parties agree that the Council can demonstrate a five year supply of housing land. Therefore LP saved Policy S3 is up to date and in accordance with the Framework and thus attracts full weight.
8. The Council submitted their Local Plan (NWLLP) for examination on 4 October 2016. Paragraph 216 of the Framework states that decision takers may give weight to relevant policies in emerging plans according to the stage of preparation, extent of unresolved objections and degree of consistency with the Framework. The NWLLP is at an advanced stage and the parties agree that NWLLP Policies S2 and S3 accord with the Framework core principle that seeks to protect the intrinsic beauty of the countryside. I have no information regarding the extent of unresolved objections to both policies. Nonetheless, I have no reason to depart from the consensus view on the level of weight afforded to them. I therefore afford them some weight in my determination of the appeal.
9. Emerging NWLLP Policy S3 seeks to protect the intrinsic character and beauty of the countryside, but lists a number of exceptions for when development on land outside the defined limits to development would be permitted. However, the proposal would not fall into any of the exceptions listed.
10. Worthington Lane is abutted by short grass verges and established tall vegetation to its sides on the approach to Breedon on the Hill from the south. These attributes give Worthington Lane an attractive verdant and rural character on the approach to the village. The 30mph sign adjacent to the proposed site access marks a transition from the countryside to the village which opens up by virtue of properties with well-maintained front gardens and driveways. This contrast in character from countryside to the village is noticeable when viewed from vantage points along this section of Worthington Lane and contributes positively to the setting of the village.
11. In order to achieve satisfactory visibility from the proposed site access, it is anticipated that a visibility splay measuring over 100 metres would be required. The visibility splay would run in a south direction along Worthington Lane and necessitate the extensive reduction and removal of roadside vegetation. The proposed access road and the length of the visibility splay would result in significant harm to the verdant and rural character and setting of the village provided by this section of Worthington Lane. As the visibility splay would be required to remain at a reduced height along the roadside to

ensure it functions effectively, additional landscaping details at the reserved matters stage would not fully prevent or reduce this harm.

12. In reaching this view I accept that the site would abut the defined limits to development on its northern, eastern and western boundaries. Furthermore, the proposal would project no further south than the properties to the south and east. I also saw that vegetation to the south of the site would visually conceal the wider development from views to the south and that views of the proposal from Main Street would be limited. In addition, it is put to me that the proposal would not occupy an isolated location in the context of paragraph 55 of the Framework. However, such factors would not prevent or outweigh the harm to the rural and verdant character along Worthington Lane and the setting of the village identified above.
13. In the context of my statutory duty, I have taken into account the effect of the proposal on the Breendon on the Hill Conservation Area (BHCA), the Lime Farmhouse (a Grade II listed building), the Church of St Mary and St Hardulph (Grade I listed building) and the scheduled ancient monument hillfort. I also note that a number of unlisted buildings of interest are to the north of the site. However, the viewpoints of the proposal from these heritage assets would be a sufficient distance away and encompass properties surrounding the northern, eastern and western boundaries of the site. I also note that the Council's Conservation Officer raised no objection to the principle of the development. Consequently the proposal would preserve the settings and significance of the above noted heritage assets. However, the absence of harm in this respect would not outweigh or prevent the harm identified above.
14. Therefore the proposed site would not be a suitable location for housing having regard to development plan, national planning policy and its effect on the character and appearance of the surrounding area. Consequently the proposal would not meet the requirements of saved LP Policy S3, emerging NWLLP policies S2 and S3, and paragraph 17 bullet point 5 of the Framework. Combined, these policies seek to protect the intrinsic character and beauty of the countryside.

Highway Safety

15. Worthington Lane received limited traffic during my late afternoon site visit and I saw the hillcrest of the highway to the south of the site and a 30mph speed limit sign adjacent to the proposed access. The vehicles I observed during my visit appeared to be traveling downhill towards the village quickly. In this light, I note that a range of observed speeds are put forward by the appellant and local residents.
16. The Highway Authority do not object to the proposal subject to conditions, one of which requiring the approval of traffic calming measures to ensure speeds of 30mph or less are achieved in the site vicinity. Consequently, irrespective of the different observed speeds put forward, based on the evidence before me, I have no reason to doubt that traffic calming measures would achieve a speed of 30mph or less in the vicinity of the site access. Nor does the evidence before me indicate that the proposed visibility splays would be unachievable or ineffective when combined with traffic calming measures. A condition could ensure that traffic calming measures are provided prior to the occupation of the first dwelling at the site.

17. I note the difference in land levels between the site and Worthington Lane. In this context, the Highway Authority also require a condition to ensure that the site access is provided at a suitable gradient to ensure that vehicles can enter and leave the site in a slow and controlled manner. Based on the size of the site, I have no reason to doubt that this condition would be achievable.
18. The Parish Council have submitted a document signed by local residents stating that they will not dispose of their land to facilitate a proposed footpath to connect the proposal to the wider village. However, this was not a matter referred to in the Council's reason for refusal. That said I have no substantive reason or evidence to question the Council's acceptance of this matter which is based on the provision of a footpath to the front of and outside the curtilage of properties to the north of the site.
19. Therefore the proposal would not have a harmful effect on highway safety. Consequently the proposal would meet the requirements of saved LP Policy T3 and paragraph 32 of the Framework which combined seek to ensure that development provides a safe and suitable access.

Planning Balance

20. Section 38 (6) of the Planning and Compulsory Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. As outlined above, the parties agree that the Council can demonstrate a five year supply of housing land and that saved LP Policy S3 is in accordance with the Framework. In such circumstances, saved LP Policy S3 attracts full weight.
21. A number of benefits are associated with the proposal. Firstly, the proposal would provide energy efficient dwellings and make an onsite contribution towards affordable housing in a rural area; a factor which attracts some weight in favour of the proposal. The proposal would also support local services and facilities and thus lead to economic and social benefits. Economic benefits would also arise via an increase in local spending power and by support to construction employment. These benefits also attract modest weight in favour of the appeal.
22. As the site is within walking and cycling distance to the village centre and public transport links, environmental benefits would arise by reducing dependency on private vehicular transport. The reserved matters stage could also secure high quality designed dwellings in keeping with the BHCA. These benefits are also afforded modest weight in favour of the appeal.
23. However, an absence of harm in relation to highway safety can only be considered a neutral factor in the planning balance. Mitigation is also provided by the submitted Unilateral Undertaking (dated 29 June 2017) in respect of education provision, open space and local bus services. Based on the evidence submitted, the obligations would comply with the statutory tests contained in Regulation 122 of The Community Infrastructure Levy Regulations 2010. However, as these obligations relate to mitigation measures, they can only be considered as neutral factors in the planning balance.
24. Combined, the weight afforded to the noted benefits would not outweigh the harm identified in relation to the first main issue. Moreover, the impact of the

proposal on the character and appearance of the surrounding area would result in environmental harm. Consequently the proposal would not simultaneously deliver the environment, social and economic dimensions required to be considered sustainable development by the Framework.

Conclusion

25. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

B Bowker

INSPECTOR