



Appeal Decision

Site visit made on 31 July 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 5 September 2017

Appeal Ref: APP/Z2830/W/17/3173801

Land at Roade Hill, Ashton, Northants.

- 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 Chartwell Industries Ltd against the decision of South Northants District Council.
 - The application Ref S/2016/2260/FUL, dated 31 August 2016, was refused by notice dated 27 October 2016.
 - The development proposed is the erection of four single storey dwellings with integral garaging following the demolition of existing dilapidated structures at the site, together with associated hard & soft landscaping, revised access arrangements, parking/turning and recycling facilities.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) Whether the principle of development is acceptable in light of local and national planning policy;
 - (b) The effect on the character and appearance of the area;
 - (c) Highway safety, and
 - (d) The effect on local ecology

Reasons

Principle of development

3. Paragraph 11 of the “*National Planning Policy Framework*” (the Framework) states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
4. The appeal site lies outside the village confines of Ashton as defined in the “*South Northamptonshire Local Plan 1997*” (the LP). It is therefore in the countryside for planning purposes. To conserve the rural environment from unnecessary intrusion saved Policies H6 and EV2 of the LP sets out a general presumption against development in the countryside. It is not part of the appellant’s case that the proposal accords with any of the exceptions stated in Policy H6.

5. In a similar vein, Policy R1 of the "*West Northamptonshire Joint Core Strategy Local Plan 2014*" (the JCS) seeks to concentrate future developments primarily in the rural service centres of Brackley and Towcester in order to protect the intrinsic character of the rural area. It states that residential development in rural areas should be within the existing confines of the village. Development outside existing village confines will only be permitted where it involves the re-use of buildings or, in exceptional circumstances, where it would enhance or maintain the vitality of rural communities or would contribute towards and improve the local economy.
6. There is no dispute between the parties that the Council can demonstrate a 5 year supply of housing. It is also germane that the JCS and the policies therein post-date the Framework and have been subject to independent examination and found sound. Policy R1 must therefore carry full statutory weight.
7. The wording of Policy R1 reflects the language of the Framework, Section 6 of which sets out the policy in respect of housing in rural areas so that housing provision reflects local needs and is sustainable development. New isolated homes in the countryside should be avoided except in special circumstances. Although the dwellings would not be 'isolated' in pure spatial terms, given that paragraph 55 seeks to restrict housing in rural areas to locations where housing will enhance or maintain the vitality of rural communities, I consider it is appropriate to have regard to accessibility to services and facilities.
8. In this context, I consider the appeal site to be poorly located. Other than a primary school and public house there are few services in Ashton. The larger service centres are some distance away and although I noted the proximity of a bus stop, the Council state that bus services are limited. Therefore, whilst it might be possible for some carefully planned journeys to be undertaken by bus, the transport mode of choice, and in most cases necessity, would be the private car. The lack of genuine transport choice and dependence on car based travel by future residents would be the inevitable consequence of the proposed development. For these reasons, the development would conflict with paragraph 17 of the Framework in terms of supporting the transition to a low carbon future and managing patterns of growth to promote walking, cycling and the use of public transport.
9. Based on the foregoing I find that the principle of development outside the village confines would conflict with the spatial strategy of the development plan, specifically Policies H6 of the LP and R1 of the JCS. There would also be conflict with advice in paragraphs 55 and 17 of the Framework.

Character and appearance

10. The appeal site comprises a plot of sloping land close to the northern outskirts of Ashton. It is bounded by existing residential development on three sides. Apart from the remains of several dilapidated structures, the site is essentially open and green in character. Given the presence of mature landscaping particularly to the eastern site boundary and dwellings to the north and south, the site has limited visual exposure from Roade Hill.
11. The appeal scheme involves the erection of four detached bungalows served by a short cul-de-sac. Dwellings in the locality exhibit a degree of variance in plot size, age, design, orientation and materials that makes it difficult to attribute a particular style or rhythm to the area. I observed some linear development

along the local road network in addition to some backland development and smaller clusters of houses. It is not therefore the case, that all dwellings address Roade Hill as asserted by the Council.

12. In my view the design and appearance of the houses has been carefully considered. They would closely reflect the style, proportions and detailing of other nearby properties particularly those to the south of the site. By virtue of their limited height, the dwellings would not be unduly prominent and on the contrary would only be readily visible from a section of private road in the immediate vicinity of the access and the public footpath.
13. I do accept the Council's criticism of the turning head which seems to be an unduly dominant component of the scheme particularly given it is unlikely that refuge vehicles would want to enter the site. However, it seems to me that if the scheme were otherwise acceptable it would be possible to address this by tweaking the layout. Although outside the village confines it is misleading for the Council to suggest the landscape context is open countryside. Consequently, I can see no persuasive reason why a suitable landscaping scheme could not be secured via planning condition.
14. Although the detailed design of the dwellings would not be inappropriate in their context, overall, there would be some moderate visual and landscape harm arising from the loss of the site's open and undeveloped character which would be particularly apparent from the public footpath. This harm would bring the development into conflict with Policies G3(A) and EV1 of the LP, the Framework or the Council's Supplementary Planning Guidance '*Residential Design in the Countryside*'. Amongst other things these seek to reinforce local distinctiveness and to ensure development is compatible with its surroundings. However, given the site's varied context and the fact that it is bounded on several sides by existing housing, I find that the level of harm would not be significant but moderate.

Highway safety

15. Whilst setting out some concerns it is pertinent that the Highway Authority did not actually object to the development or specify exactly what harm would be caused. Despite high levels of car dependency, it is unlikely that the number of vehicular and pedestrian movements generated by the development would be significant in numerical terms. The dwellings would be served via a new private access road which would form a simple priority junction with the unnamed private road. When I visited the site I saw that traffic speeds and volumes along the private road are both extremely low. Therefore whilst visibility at the new junction might be restricted, there is no evidence before me to suggest this would pose a highway safety problem in practice.
16. Contrary to the comments of the Highway Officer, the horizontal alignment of the private road is such that there would be a clear line of sight from the new bellmouth to the Roade Hill junction. Consequently, drivers would be able to egress the development with the benefit of being able to see oncoming vehicles. Whilst I cannot discount totally the possibility of opposing two-way movements along the short section of private road, that is the case now and no evidence is before me to demonstrate this causes a particular road safety problem. In reality on those rare occasions when two vehicles were to meet, it is probable that one vehicle would reverse the short distance back into the

development or simply pull onto the verge fronting 15-19 Roade Hill causing nothing more than a fleeting inconvenience to other road users.

17. The Highway Authority refers to a '*clash between a private drive and public footway*' and requests a 2 metre wide footway. However, these concerns/requests have not been substantiated in any detail. The Council's Appeal Statement refers to the public right of way as opposed to a footway. Assuming the concern relates to the public right of way KA15 which abuts the western site boundary, I have no reason to believe the modest amounts of traffic generated by the development would pose an unacceptable risk to users of the footpath.
18. The private road effectively operates as a shared surface with pedestrians able to take refuge on the wide verge in the event of approaching vehicles. Bearing in mind the amount and speed of traffic using the private road, the minimal number of pedestrian movements likely to be generated and the lack of evidence relating to existing road safety problems in the area, there is simply no logical basis for the Highway Authority's request for a new footway.
19. Finally, reference is made to the Highway Authority's policy on private roads. However, no details of this policy have been provided. I do not therefore know what its rationale is or whether it is consistent with national guidance. It therefore carries very limited weight.
20. Based on the foregoing, I am satisfied that the development would have an acceptable means of access and would not compromise highway safety. As a result there would be no conflict with Policy G3(B) of the LP or paragraph 35 of the Framework. In coming to that view I have considered comments made by local residents and others that an alternative site access should be provided from Roade Hill. However, I am required to assess the scheme before me in its current form. Such issues are thus a matter for the appellant.

Ecology

21. A wide range of species are protected by European and national legislation. Guidance on the conservation of protected species is given in ODPM Circular 06/2005. At paragraph 99 the Circular advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. However, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place before the permission is granted.
22. The appeal site itself has no ecological or wildlife designation. It is probably best described as vacant scrub land. Although the site contains hedgerows and a small number of trees around the site boundaries, these would be mostly retained and supplemented where appropriate with additional planting.
23. An Extended Phase 1 Habitat Survey was submitted with the application. This found that the development would have a 'moderate/adverse effect' on habitats within the site. The report makes various recommendations most of which are capable of being dealt with by planning condition. The conclusions/recommendations of the report have not been challenged by any

cogent evidence. The appellant has also provided a further survey in relation to reptiles which found that the impact of the development could be adequately mitigated.

24. The Council takes the view that there is insufficient information in the Ecological Report regarding the effect on bats and badgers and that specific surveys are required prior to permission being granted. However, no evidence has been adduced to demonstrate there is a reasonable likelihood of these species being present and affected by the development. Indeed the presence of bats and badgers has not been mentioned by local residents which would be expected if they were present. The Ecological Report states that the dilapidated structure on the site offer no potential for roosting bats. In my view, given that those limited number of mature trees along the eastern site boundary are to be retained, I am not persuaded there would be any significant effect on bats even if they are present.
25. Similarly there is no substantial evidence to suggest the presence of badgers. The Ecological Report states that no evidence of badgers was found on the site and the nearest record of badgers was over 1km from the site in 2006. Consequently, I do not consider there is a reasonable likelihood of badgers being present. If I am wrong about the presence of either bats or badgers, planning conditions requiring additional investigation work and a Natural England European Protected Species licence application, if necessary, could be imposed in the event I was minded to allow the appeal.
26. I therefore, conclude that the proposal would not have an adverse effect on ecology and accordingly there would be no conflict with the advice in Circular 6/2005, Section 11 of the Framework, Natural England's Standing Advice, Policy BN2 of the JCS or saved Policy G3(K) of the LP.

Other Matters

27. The appellant has drawn my attention to a range of other appeals decisions. However, I have no direct knowledge of these cases and there are few details before me. Although I was able to locate the Brook Farm decision¹, the development plan in that case pre-dated the publication of the Framework and therefore the Inspector was entitled to give it reduced weight in his decision. That is not the case here as the JCS was examined and adopted after 2012. I was unable to locate the other appeal decisions referred to in paragraph 3.11 of the Appellant's Grounds of Appeal. That being the case I cannot be sure they are directly comparable to the scheme before me. In any event, I am required to assess the appeal before me on its own merits in the light of the particular circumstances which apply in this case and this is what I have done.

Conclusion

28. The starting point in weighing the various factors is that the principle of housing in the countryside conflicts with an adopted development plan. The development would result in the need to travel by car for basic day-to-day services and facilities which would not support the transition to a low carbon future nor would it be consistent with the Framework's aims to make the fullest use of non-car modes of transport. There would also be some moderate harm

¹ APP/K0235/W/16/3156635

to the character and appearance of the area arising from the scale of development and a loss of openness.

29. Whilst I have found that the development would not harm highway safety or ecology, a lack of harm in these areas is a neutral consideration in the overall planning balance.
30. Having considered all the matters raised, the collective benefits of the proposed development are of insufficient weight to indicate that the proposal should be determined other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

D. M. Young

Inspector