



Appeal Decision

Site visit made on 29 January 2019

by G Jenkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2019

Appeal Ref: APP/W1850/W/18/3215046

Land adjacent to Compton, Bowley Lane, Bodenham, Herefordshire

- 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 Broadfield Court Estate against the decision of Herefordshire Council.
 - The application Ref 182845, dated 27 April 2018, was refused by notice dated 4 October 2018.
 - The development proposed is erection of 2 No. self build dwellings with garages & 1 No self build bungalow with parking.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant has submitted a Unilateral Undertaking with this appeal and I have considered this in reaching my decision.
3. In February the Government published its Housing Delivery Test, which showed that a 20% buffer has been applied. The main parties were both asked for their comments in relation to this and the revised National Planning Policy Framework (the Framework) and I have taken these comments into consideration.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the appeal site is situated in a sustainable location
 - The effect of the proposed development on biodiversity; and

Reasons

Character and Appearance

5. The site is located on Bowley Lane, adjacent to an existing residential dwelling and outbuildings referred to as 'Compton'. The site lies in open countryside. The site is approximately two miles from either Bodenham or Bodenham Moor. The site is situated in an elevated position. It is currently used for agriculture

as part of a large estate referred to as 'Broadfield Court'. Bowley Lane is a narrow single-track road. The site is bound by hedgerow on all sides and currently does not have vehicular access from Bowley Lane.

6. The proposal is for 3 self-build dwellings; one 3-bedroom and one 4-bedroom 1.5 storey dwellings and one single storey 2-bedroom bungalow. The properties would be of timber frame construction with render and brick elevations under a slate roof. Access would be via a new single drive off the C1113 (Bowley Lane).
7. Somewhat unavoidably, the proposal would result in encroachment of urban form into the countryside and across a currently undeveloped site very much rural in its character and connection with the landscape in which it sits. The dwellings would be visible from the road and surrounding area, mainly given the elevated nature of the site. The site commands wide views of the open countryside and is visible from some distance, thus so would the dwellings. I therefore agree with the Council that the proposed development would result in the urbanisation of a pastoral landscape as well as the loss of the hedgerow for the access; this is a key characterisation of this landscape type according to the evidence before me.
8. With the above in mind, the appeal scheme would conflict with Policies LD1, BDNP8 and BDNP9 of the Bodenham Neighbourhood Plan (BNP), Policy LD1 of the Herefordshire Local Plan Core Strategy 2011 – 2031 (HLP) and the Framework. Amongst other things, these policies seek to ensure that new development is not harmful to the landscape.

Whether the appeal site is in a sustainable location

9. The appeal site lies outside of a defined settlement and is therefore, in planning policy terms, is located in the countryside. It is approximately two miles from the settlements of Bodenham and Bodenham Moor. The former one of these is the focus for new development set out by Policy SS2 which relates to the delivery of new homes.
10. The HLP sets out the housing strategy for rural areas and requires that housing development be located within the existing settlement boundaries. As the site lies within open countryside the principle of development must be assessed Policy RA3 of the HLP. This policy includes a list of exceptions under which circumstances residential development may be permitted in rural areas.
11. The appellant states that the proposed development would be occupied by the landowner's children, two of which work on the estate, the other of who is a teacher outside of the local area. However, there is no expansion on this matter. It is not explained as to whether the dwelling would therefore constitute a property needed for a farm diversification enterprise worker to live in or whether the dwelling is necessary for the growth of a rural enterprise. With this in mind, I am not persuaded that the proposed development would comply with any of RA3's exceptions.
12. The evidence suggests that the appeal site is served by two bus services per day but this does not strike me as being sufficient to rely upon. The relatively remote nature of the site, the surrounding infrastructure and access leads me to conclude that it is most likely future occupiers would rely on the use of the private car to access the services on which they would rely for day to day

living. This is the least sustainable travel option as per the Framework. Moreover, the scheme would fail to meet the requirements of Policy MT1 of the Core Strategy, which seeks to give genuine choice as regards movement. It would therefore be my conclusion on this main issue that the principle of the appeal scheme would not be acceptable, the proposed development would serve to promote unsustainable patterns of development and is therefore, contrary to the policies I have identified.

Biodiversity

13. As I have alluded to above there are hedgerows and trees on the boundary of the site that have the potential to be impacted by the construction process and creation of the new highway access although no detail of the extent of this loss has been supplied. I note that the Council has requested a tree and hedgerow survey and an ecological assessment of the site.
14. Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it 'is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. Otherwise all relevant material considerations may not have been addressed in making the decision' (Paragraph 99).
15. I am of the view that there is reasonable likelihood that protected species may be affected by the proposed development and in the absence of any survey information I cannot be satisfied that any effect would not be adverse. The Circular states that conditions for surveys should only be attached to planning permissions in exceptional circumstances which I do not consider are before me and in any event details of any mitigation would be necessary prior to the grant of planning permission so I could be satisfied overall effects would be acceptable.
16. The proposed development would therefore be contrary to Policies LD1 and LD2 of the CS and the Framework, which set out, amongst other things, that all developments should show how they would enhance the local biodiversity potential.

Planning Balance

17. The Council cannot demonstrate a deliverable 5-year supply of housing. The Framework indicates that planning decisions should apply a presumption of sustainable development in such circumstances. For decision taking, where Development Plan policies, which are the most important for determining the application, are out of date, permission should be granted 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.
18. The Framework sets out that when a Neighbourhood Plan became part of the Development Plan within two years of the date of a planning decision, the neighbourhood plan contains policies and allocations to meet its identified housing requirement, and that the local planning authority can demonstrate at least a three year supply of housing, the adverse impact of allowing the

development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits.

19. In this case I have found that the development would not be in a sustainable location which weighs heavily against the proposal. The BNP seeks development within Bodeham and Bodenham Moor. I therefore find that the proposal would be contrary to the BNP and that the harm in the conflict with this does indeed significantly and demonstrably outweigh the benefit of much needed new housing, including the provision of affordable housing.
20. The development would provide some minor economic benefits to the rural area through the construction process, and in generating further economic activity through increased population in the rural area. In respect of the other aspects of the social dimension, the proposal would bring some minor social benefits in that it would provide much needed additional housing. All of these matters weigh in favour of the development, although none of these factors, in isolation or cumulatively, are significant factors.
21. In addition to the above, I have taken into account that the accommodation would provide for the appellant's family members some of whom are already on the self build register with the Council. However, I have limited information before me pertaining to the overall supply of self-build plots in the district and thus whether there is necessarily a greater need beyond the personal. There would be knock on benefits associated with investment in the construction industry as well as expenditure from future occupiers. I therefore consider that this is a neutral factor in the overall planning balance.
22. A proposal for just three new dwellings is unlikely to have any significant effect in reducing Councils housing deficit. Against this background, to my mind, the harm identified (including the conflict with the LP and BNP) significantly and demonstrably outweighs the minor benefits when assessed against the policies in the Framework taken as a whole. I therefore conclude that the appeal proposal would not be sustainable development.

Other Matters

23. I note the appellant's point in regard to the fact that the proposed development could offer improvements to the current accessibility of the site specifically in regard to the bus service. However there is little detail as to how this might be achieved. I have therefore given this very little weight in my decision.

Conclusion

24. For the reasons referred to above and having considered all evidence before me and from what I saw on my site visit, I conclude that the appeal should be dismissed.

Gemma Jenkinson

INSPECTOR