



Appeal Decision

Site visit made on 30 July 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/F2415/W/19/3229976

Land off Fenny Lane, Shearsby

- 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 AWPP against the decision of Harborough District Council.
 - The application Ref: 18/01695/OUT, dated 25 September 2018, was refused by notice dated 30 November 2018.
 - The development proposed is outline planning application for the erection of four residential dwellings with associated access and community orchard.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by AWPP against Harborough District Council. This application will be the subject of a separate Decision.

Procedural Matters

3. The planning application was submitted in outline form, with all matters reserved apart from access. I have had regard to the proposed access arrangements shown on the submitted plans. Whilst several plans showing the layout, appearance and form of the development have been submitted, I have had regard to these on an indicative basis only.
4. Subsequent to the Council refusing planning permission, the Harborough District Core Strategy, together with the saved policies of the previous Local Plan have been replaced by the Harborough District Local Plan (the Local Plan). In addition, the Shearsby Neighbourhood Plan (the Neighbourhood Plan) has been the subject of a successful referendum. Accordingly, it now forms part of the Development Plan. I have given both documents full weight in my considerations. I note that the main parties had the opportunity to respond to this change in circumstances in submitting their evidence.
5. My site visit was intended to be an access required site visit, although I was not able to proceed on that basis. However, I was able to consider the main issues based on seeing relevant parts of the site from public areas and the surrounding network of footpaths. The site visit was therefore carried out on an unaccompanied basis.

Main Issues

6. The main issues are:

- whether the site represents a suitable location for development with regard to local and national policies on housing;
- the effect on the character and appearance of the surrounding area, and whether the development would preserve or enhance the character and appearance of the Shearsby Conservation Area; and
- the effect of the development upon highway safety.

Reasons

Suitability of the site

7. The appeal site consists of a pasture, containing footpaths adjacent to the built form of Shearsby. The predominant land use in the village is residential accommodation. There are two roads into Shearsby: Mill Lane to the south of the village; and Back Lane to the east. The appeal site is accessed from Fenny Lane, which serves a relatively small number of dwellings and is a narrow cul-de-sac.
8. Under the provisions of the Neighbourhood Plan, a small portion of the appeal site is within the settlement boundaries. However, given the quantum of the proposed development, it appears unlikely to come forward without projecting beyond the settlement boundaries, thus breaching the policy. These boundaries seek to direct future development towards the existing built up area. Whilst the presence of neighbouring dwellings would mean that the proposal would not be isolated, I note that the type and level of services available in Shearsby are commensurate with what may be expected within a rural village context.
9. Residents of the proposed development wishing to access Shearsby would need to utilise Fenny Lane. This is, in places, lacking in pavement provision and occasionally steep in gradient. Accordingly, some residents may not find this to be a particularly attractive walking environment. I acknowledge other dwellings within Fenny Lane, but the residents of the proposed development would face a longer walk.
10. Owing to the current service provision, it can be reasonably anticipated that residents of the proposed development would need to travel to other settlements in order to meet the bulk of their day to day needs. Whilst I recognise that some settlements in the wider area may be a relatively short drive away by private car, this is not the most environmentally sustainable form of transport. I note an absence of bus stops within the confines of Shearsby, and therefore, if residents were not to be reliant upon private cars, journeys would need to be made on foot.
11. This causes concern as, once outside of the village, the surrounding road network features little in the way of pavements and many are subject to national speed limits. The lack of a welcoming pedestrian environment creates potential conflict between vehicular and pedestrian traffic that may discourage the latter and could encourage the use of private vehicles over more sustainable forms of transport.

12. The appellant has drawn my attention to the 'Demand Responsive Transport System', which is a form of public transport. However, I have given this matter less weight in my assessment as the evidence before me, in the form of representations from the Parish Council, indicates that this service operates on a single day of the week, and that the bus stop is approximately a quarter of a mile away from the appeal site.
13. I acknowledge that the proposed development would lead to an increase in Shearsby's population, but the scale of the development is unlikely to support enhanced public transport provision to a notable degree. I realise that the opportunities to maximise sustainable transport solutions may be lower in a rural area when compared to a more urban setting. However, the significant harm derived from the lack of appropriate sustainable access to services causes significant concern.
14. Potential benefits to the vitality of services in Shearsby are limited owing to the relatively small scale of the development, and the existing level of service provision. I acknowledge that some benefits to the vitality of other settlements may emanate, but these are tempered by the lack of sustainable transport options by which they might be reached.
15. Policy H1 of the Neighbourhood Plan makes provision for new developments of up to five dwellings within the confines of the village. The evidence before me indicates that there is a need in Shearsby for smaller dwellings and bungalows. This is consistent with the aims of Policy GD4 of the Local Plan, albeit this Policy directs new development to previously developed sites.
16. Although an outline application, it is likely that the development could be designed to provide at least some smaller dwellings, or bungalows. However, one of the aims of the Neighbourhood Plan is to direct new development to inside Shearsby's boundaries, and the development fails to comply with this. Furthermore, there is a clear planning policy direction to locate new dwellings in sustainable locations. Therefore, whilst there are some benefits to the proposal, these do not overcome the identified harm.
17. I therefore conclude that the site's location is inappropriate for housing, as owing to the nature of the location, residents would not have access to necessary services, which would necessitate a greater reliance upon less sustainable forms of travel. The development therefore fails to comply in this regard, with the requirements of Policies IN2, GD4 and GD8 of the Local Plan and Policy H1 of the Neighbourhood Plan. These policies, amongst other matters, seek to direct new development to within the defined settlement limits; reuse previously developed sites; and ensure the safe, efficient and convenient movement of all highway users.

Character and appearance

18. The appeal site, which is allocated as a Locally Important Open Space in the Neighbourhood Plan, consists of a pasture and part of a larger field that is situated on land higher than the village. The site is within the Shearsby Conservation Area (CA). Shearsby is surrounded by higher land and, as the village features buildings of a lower height on its periphery, is complementary to the surrounding landscape. The appeal site features a footpath that runs in a northern direction along the western boundary of the site, before travelling eastwards along the northern boundary. The path also provides access to

Fenny Lane. Views of the more recent bungalows in Fenny Lane are, in part, screened by planting. More significant planting and trees are present on the remaining boundaries.

19. Owing to the topography of the site when compared to Fenny Lane, the proposed dwellings would appear noticeably taller than many of the surrounding buildings, irrespective of their eventual siting. Although scale is a reserved matter, they are likely to be visible over the existing, low level, bungalow development in Fenny Lane. This would give them a much greater degree of prominence and would represent the insertion of a more modern form of development, which would appear incongruous. I am conscious that there are some trees on the northern boundary that would provide screening, but this effect would be less than total. Furthermore, views into the development would be possible owing to the presence of the access road.
20. Whilst the application has been made in outline form, it is likely that the built form of the dwellings, in addition to the potential for access roads and driveways would lead to a significant addition to the built environment. This would be at the expense of the current pasture, the importance of which is acknowledged in the Neighbourhood Plan. This space contributes to the village's character and the CA's significance, and acts as a transitional space between the built form of the village and the more open countryside beyond.
21. Furthermore, owing to the presence of the footpath that runs on a north to south alignment of the site, the development has the potential to be experienced by a greater number of people. This would therefore heighten the harm arising from the development.
22. The topography of the area means that the development would also have a greater degree of visibility when viewed from the areas to the south. This would result in the erosion of the distinguishing factor, where the village of Shearsby is located within a natural bowl. The development would project beyond this and therefore harm the character and appearance of the surrounding area, and the setting of the CA.
23. I have had regard as to whether additional landscaping could overcome my concerns. Whilst the application was made in outline form, the quantum of development limits the amount of space in which this could be achieved (except for the community orchard to the east). Furthermore, given the landscaping would be part of a residential development, there is a likelihood that it would be of a more domestic appearance than the current more rural and natural character.
24. As part of the proposed highway works, it is proposed that a tree be removed from the verge in Fenny Lane, adjacent to the existing turning head. The presence of trees within this road makes a positive contribution to the character and appearance of the CA, by creating a verdant setting that is reflective of the rural surroundings. Accordingly, its removal would have an adverse impact. I note that the Local Highway Authority (LHA) have suggested that a financial contribution could be sought to provide mitigation elsewhere. However, as no form of legal agreement to secure such a contribution has been submitted, I consider that the loss of the tree would be unmitigated, thereby harming the character and appearance of the CA.

25. The development includes a community orchard, which is indicatively located to the east of the site. This would reduce the impacts of the development when approached from this direction owing to the screening effect, however, this does not offset the harm as previously established.
26. Due to the adverse effect on the character and appearance of the area, I conclude that the proposal fails to comply, in this regard, with Policies HC1 and GD8 of the Local Plan; and Policy H1 of the Neighbourhood Plan. These policies, amongst other objectives, seek to ensure that developments respecting and enhancing both the local character and distinctiveness of the settlement; do not reduce green space; and preserve or enhance the significance of heritage assets. However, the harm to the CA would be less than substantial. Paragraph 195 of the National Planning Policy Framework (the Framework) requires me to balance the less than substantial harm against the public benefits, which I shall do below.

Highway impacts

27. Fenny Lane is a relatively narrow cul-de-sac serving a small number of dwellings, in addition to providing access to the appeal site. There is a small turning head at the current conclusion of the road. It is proposed that access to the site would be achieved by altering this turning head.
28. The appellant, as part of their appeal submission, has submitted a revised plan to overcome the issues raised by the Council and the LHA. I note from the LHA's Statement of Case that there are no substantive objections to this revised scheme.
29. Having reviewed the plans on which the Council based its decision and the revised scheme, I am satisfied that the differences between them are comparatively small, and unlikely to lead to notably different impacts upon the living conditions of neighbouring properties. Accordingly, I am content that the consideration of the revised plans as part of this appeal would not prejudice any third party. Therefore, owing to the lack of objections from the Council or the LHA, and the fact that if I had been minded to allow the appeal, I could condition the carrying out of these works, I do not believe that the scheme would cause harm to highway safety.
30. In reaching this conclusion, I have noted that the LHA have suggested that a lower quantum of off site works are necessary than that proposed by the appellant. However, the evidence before me is indicative that the scheme proposed by the appellant would provide a safe means of access and that Fenny Lane could accommodate the additional traffic.
31. Accordingly, I conclude the development would not lead to a deterioration of highway safety. The proposal is therefore compliant, in this regard, with the requirements of Policies IN2 and GD8 of the Local Plan, which seek to ensure that developments have appropriate servicing and parking arrangements; whilst allowing for the safe movement of highway users and access.

Other Matters and Planning Balance

32. My attention has been drawn to a recent appeal elsewhere in Fenny Lane¹. Whilst I have not been provided with information pertaining to all the planning

¹ APP/F2415/W/18/3211087

circumstances, I note that this development was of a much smaller scale and on a substantially more enclosed site. Consequently, I do not believe that this appeal decision requires me to set aside my previous conclusions.

33. As discussed previously, I have found that harm would be caused to both the character and appearance of the area and the CA. The harm to the CA would be less than substantial, taking into account paragraph 195 of the Framework. It is therefore incumbent upon me to assess whether any public benefits exist and, if so, whether they outweigh the identified less than substantial harm.
34. As identified previously, it is apparent that the development could be bought forward in such a way to deliver additional smaller dwellings, or bungalows that would be of some benefit to the public. I also acknowledge that the proposal would generate some economic benefits (such as at the construction stage).
35. I recognise that the development would result in ecological benefits, however, this is only one of all the matters that must be considered. Furthermore, the development includes a community orchard, which I believe would be of some benefit from an ecological perspective, as well as being a positive addition to local public open space provision. I also recognise the proposed improvements to Fenny Lane and the site's footpath. I am of the view that such works could be carried out in a manner that is consistent with the rural character of the surrounding area (such as through close attention to materials) and would be of some benefit.
36. However, as these benefits would be relatively small scale and potentially localised in impact, they would therefore not outweigh the harm to the CA as previously identified.
37. Notwithstanding the Council confirming that it can demonstrate a housing land supply in excess of five years, the appellant has suggested that the tilted balance prescribed by paragraph 11(d) of the Framework applies. Irrespective of the additional units created by the development, I note that the tilted balance does not apply in instances where a proposal would conflict with the Framework's requirements in respect of the impacts upon heritage assets. Accordingly, my considerations lead me to a decision in accordance with the requirements of the Development Plan.

Conclusion

38. Whilst I have found that the proposed development would offer some benefits and that highway safety would not be compromised, I have identified that the site would be an unsuitable location for a residential development and that harm would emanate to the character and appearance of the area, as well as the Conservation Area. Therefore, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR