
Appeal Decision

Site visit made on 17 September 2019

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th October 2019

Appeal Ref: APP/F2415/W/19/3232745

Land west of Sutton Lane, Sutton in the Elms

- 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 D Poyner of Davico Properties Limited against the decision of Harborough District Council.
 - The application Ref 18/01936/OUT, dated 13 November 2018, was refused by notice dated 8 January 2019.
 - The development proposed is the construction of 9 dwellings with associated parking and external amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address used in the description above differs to that given on the application form. However, it is the one used on the appeal form and decision notice and I am satisfied it accurately describes the site's location.
3. The application was submitted in outline with only landscaping reserved for future consideration. Since the determination of the application, the Harborough Local Plan (LP) has been adopted and has replaced the policies of the Harborough Core Strategy referred to in the decision notice. I am required to consider the appeal based on the most recent policies. The Council has indicated that on the basis of the new plan, it no longer wishes to defend the first reason for refusal relating to the principle of development in this broad location. I have considered the appeal on the basis of the above.

Main Issues

4. The main issues are the effect of development on:
 - the character and appearance of the area;
 - archaeology; and
 - highway safety.

Reasons

Character and appearance

5. The site is an open field which lies beyond the end of the built form of Sutton in the Elms. It is undulating in nature, with a mature hedgerow bordering it to

the roadside. To the north of the site is a go-kart track and associated buildings. There is open countryside to the rear and opposite the site. There is an open paddock with a relatively long frontage between the site and 'The Barn', which represents the clear and definitive end of the main built form of the settlement.

6. Sutton in the Elms is a small, largely linear village. There appears to be no overriding or homogenous style of housing. Rather, what gives it its character is the varied, but relatively tightly knit nature of the housing; incorporating a mix of detached, semi-detached and terraced dwellings of different ages, scales, materials and architectural detailing.
7. Development here would not constitute infill. The buildings and uses to the north of the site are some considerable distance from 'The Barn' and are also poorly related visually and functionally to the village proper. While the village may contain a mixture of residential and non-residential uses, most are clearly part of the existing settlement and physically integrated with it. In addition, the development would still leave a substantial physical gap to either side. This reinforces my view that the development would not appear as infill, but as a clear encroachment into the countryside. Any development on the edge of a settlement would lead to a distinct change in character. While change need not always equate to harm, the nature of the development and its relationship to the rest of the village would have a materially detrimental impact.
8. Irrespective of the design of the individual dwellings, the single point of access for the semi-detached units, their position some distance behind significant levels of screening, the short distributor road and individual driveways and small front gardens would all contribute to the impression of a small self-enclosed estate. As such, this would appear disconnected and visually poorly related to existing dwellings. This layout would also be uncharacteristic of the majority of dwellings in the village which have individual accesses onto the street and/or are much more closely related to the roadside. The development would therefore appear as an unsympathetic and discordant adjunct to the settlement with little regard for its overall character. This impression would be exacerbated by the sizeable gap in the frontage between 'The Barn' and the site.
9. The three detached dwellings would not share the linear layout of the semi-detached units and, owing to their layout around the second access road, would not relate well to them. Indeed, the two parts of the development would not appear as a coherent scheme, but as two unrelated elements, both in terms of design and layout. This would be caused by the overt change and difference in building line, the increase in depth of development and the lack of integration between detached and semi-detached units. In my view, this does not constitute good design and would only serve to exacerbate my concerns over the poor relationship between the development and the existing built form.
10. Retention of the existing landscaping around the site would provide some screening, but the urbanisation of the site would still be clear, not only in terms of the buildings but also from the increased hardstanding, associated domestic paraphernalia and new and/or more engineered accesses. Moreover, even if as much as possible of the hedge is retained, any new access would clearly

diminish the contribution it currently makes to the rural character of the site and setting of the village.

11. I acknowledge that permission has been granted for housing elsewhere in the village. However, this does not alter my view that the siting and layout of the development would result in an unduly discordant encroachment into the open countryside. As a whole, the development would not respect the village's grain or layout and would diminish its rural character and setting. I find therefore that the development would result in an unacceptable impact on the character and appearance of the area. Consequently, there would be conflict with LP policies GD2 and GD8 which seek, amongst other things, to ensure that development respects the form and character of the existing settlement and landscape.
12. There would also be conflict with the Broughton Astley Neighbourhood Plan (BANDP) (2014). In particular, Policy H3 which allows for windfall development which does not have a detrimental impact on the surrounding area. Finally, there would be conflict with Paragraph 127 of the National Planning Policy Framework (the Framework) which seeks, amongst other things, to ensure development is sympathetic to local character and adds to the overall quality of the area.

Archaeology

13. Risks associated with archaeology were identified in a previous refused application on the site. The appellant's Design and Access statement acknowledges this and though no additional comments were received from the Council's Archaeology Officer on this application, it would have been reasonable for the appellant to assume that this was an issue to which the Council would have regard. Notwithstanding the appellant's comments on the site being 'made land', the Council's officer report, and the Archaeology Officer's comments on the previous application, suggests there is reasonable scope for the site having potential archaeological interest. In my view, this justifies a precautionary approach. This is particularly the case when considering the likelihood of substantial earthworks to alter levels.
14. If there is any reasonable prospect of archaeological remains within the site that could be adversely affected by development, then assessment and, if necessary, evaluation should take place *before* a planning application is determined. This is in order to be able to predict the presence of any remains and assess their potential significance. Layout is not a reserved matter. Based on what I have before me, I cannot therefore conclude with any certainty what potential impacts there might be or whether appropriate mitigation would be achievable. As such, it would not be appropriate in this case to impose conditions requiring assessments prior to any works taking place.
15. Accordingly, I have insufficient evidence to be satisfied that the development would not result in unacceptable harm to archaeological assets. There would therefore be conflict with LP Policy HC1 which seeks, amongst other things, to ensure development protects, conserves or enhances the significance of non-designated heritage assets. There would also be conflict with Paragraph 189 of the Framework. This expects developers to submit appropriate assessments where there is potential for heritage assets with archaeological interest. Paragraph 192 also highlights the importance of sustaining and enhancing the significance of heritage assets.

Highway safety

16. Although there is no through route along Sutton Lane, there is an access to the go-kart track and a turning area. There is also an access to a public right of way at the end of the road. The site's access would be beyond the existing 30mph sign in an area with no pavements or street lighting.
17. There is no evidence before me relating to the number of trips that are generated along Sutton Lane, particularly in relation to the commercial activities beyond the site. However, visibility out of the site would be good as Sutton Lane is both long and straight. The fact the site is near a dead end should have some influence on the speed of vehicles approaching the site. There are already likely to be some pedestrian movements associated with the public footpath which should also have some effect on the behaviour of regular users of the road. The development would obviously result in some additional trips, but these are unlikely to be significant in number.
18. While there is likely to be some degree of risk associated with the development and the nature of highway conditions adjacent to the site, I am not convinced that such issues could not be satisfactorily addressed. The Highway Authority suggested they would like to see additional information relating to paving, lighting and the relocation of the 30mph sign. This information was not forthcoming. However, there is nothing to suggest that such mitigation measures could not be implemented or would not be effective in minimising the risks that would exist.
19. As such, had I been minded to allow the appeal, highway safety measures could have been satisfactorily addressed by condition. Accordingly, I am not convinced by what is before me that the development would result in an unacceptable impact on highway or pedestrian safety. Consequently, there would be no conflict with LP Policy GD8 which seeks to ensure, amongst other things, safe access and movement of all highway users. There would also be no conflict with Paragraph 109 of the Framework. This states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters and Planning Balance

20. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.
21. The development would clearly have some benefits in terms of providing new housing to meet the district's needs. The Council argues that it can demonstrate a five-year supply of deliverable housing land. I have seen nothing that would lead me to a different conclusion. There is also no strong evidence of a local housing shortfall that would justify what I consider to be harmful development. The development would generate additional expenditure in the area to help support local services and provide short term benefits through construction. The scale of these benefits would however only be moderate in scale.
22. While there is an indication that some of the homes were intended to be 'affordable', there is no mechanism before me to secure their delivery as such.

There is dispute between the parties as to whether the development would be liable for affordable housing under Policy H2 of the LP. However, as this did not form part of the reason for refusal, and I am dismissing the appeal for other reasons, I do not need to consider this matter further. I have therefore given no weight to the potential for affordable housing in my decision.

23. I acknowledge the Council found no harm in terms of living conditions, flooding or other factors such as biodiversity. However, even if I were to agree with them on these matters, a lack of harm would be neutral and would weigh neither for nor against the development. That the site falls outside the 'area of separation' identified in the BANDP also does not justify a poor form of development.
24. Having regard to all relevant factors, I do not consider the benefits of the development outweigh the harm identified. Accordingly, there are no material considerations that would lead me to a decision other than in accordance with the Development Plan.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR