



Appeal Decision

Hearing Held on 15 October 2019

Site visit made on 15 October 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2019

Appeal Ref: APP/G1630/W/19/3228967

**Former Poultry Farm, Evesham Road, Littleworth, Greet, Winchcombe,
Gloucestershire GL54 5FA**

- 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 Coolglas Developments Ltd against the decision of Tewkesbury Borough Council.
 - The application Ref 17/01164/OUT, dated 25 October 2017, was refused by notice dated 20 November 2018.
 - The development proposed is outline application for the erection of 24 dwellings (13 affordable and 11 market dwellings) including formation of new access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the details relating to the matters reserved for future approval submitted with the appeal application as a guide to how the site might be developed.
3. The emerging Tewkesbury Borough Plan (the ETBP) is at pre-submission stage and is currently being consulted upon (consultation commenced on 4 October 2019) before ultimately being submitted for examination. The Council has suggested that the ETBP is at a stage that attracts moderate weight. However, as there may be unresolved objections to its policies, which may yet change prior to being formally adopted, I afford the ETBP limited weight.
4. The Council confirmed in advance of the Hearing, following the receipt of correspondence from the Lead Local Flood Authority removing their objection to the scheme, that they no longer rely on its fifth reason for refusing planning permission concerning surface water drainage arrangements. I shall consider the appeal on this basis.
5. Furthermore, as a signed and dated Unilateral Undertaking (the UU) was placed before me at the Hearing, I shall proceed to determine the appeal on the basis that the Council's sixth reason for refusal, which relates to the absence of a planning obligation, no longer applies. I make this assumption whilst noting that the UU contains clauses related to the delivery of affordable housing, a

matter pertinent to main issues in this appeal. The UU also secures contributions towards public open space and refuse and recycling. I shall return to the UU later.

Main Issues

6. The main issues are:

- Whether or not the appeal site represents an appropriate location for the proposed development having regard to the development plan, including whether or not the site meets the criteria set out for a rural exception site;
- Whether or not the proposed development would deliver an appropriate proportion of affordable housing, having particular regard to the scheme's viability;
- Whether or not the proposed mix of house types is appropriate; and
- The effect upon the character and appearance of the area.

Reasons

Whether or not an appropriate location for the proposed development having regard to the development plan

7. Policy SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (adopted December 2017) (the JCS) sets out that housing development will be permitted on allocated housing sites and on previously-developed land in existing built up areas, rural service centres and service villages. Housing development on other sites, and thus in the Borough's rural area, the policy states, will only be permitted where, amongst other criteria, it is for affordable housing on a rural exception site in accordance with Policy SD12 of the JCS. The scheme before me has been put forward as a rural exception site.
8. Policy SD12 sets out that in certain circumstances, where there is clear evidence of a local housing need that cannot be met elsewhere, affordable housing will be permitted on rural exception sites. The policy is clear that a rural exception site must be within, or on the edge of, a rural settlement and should be of a scale well related to the settlement both functionally and in terms of design.
9. An independently produced Housing Needs Survey Report (September 2016) (the HNS) relates to the parish of Winchcombe, which incorporates the town of Winchcombe as well as surrounding hinterland. The HNS identifies an affordable housing need of 67 households in the parish. The main parties to this appeal agree that the findings of the HNS continue to be relevant. Indeed, having carefully considered the evidence before me, including where related to other developments that have come forward in the local area, I am satisfied that the level of local need identified is unlikely to have changed to any significant degree since the HNS was produced.
10. With respect to the potential for the outstanding need to be met elsewhere within the parish, the Council has referenced an emerging site allocation at Winchcombe town. This has an indicative capacity of 80 dwellings, which would translate to the delivery of 32 affordable units based on a policy-compliant level of affordable housing. However, there is presently no certainty

that this allocation will come forward and thus it cannot currently be relied upon to deliver the number of affordable units provisionally anticipated.

11. It is my understanding that the Winchcombe and Sudeley Neighbourhood Plan 2011-2031 (made January 2017) (the NP) identifies an as yet uncommitted requirement for new housing across the plan period that equates to 38 homes in the Winchcombe parish and thus the anticipated delivery of merely an approximate 15 affordable units. Thus, it appears inevitable that rural exception sites will have an important role to play if the identified local need is to be fully satisfied.
12. The appellant has assessed potential alternative rural exception sites surrounding the settlements of Littleworth and nearby Greet. Indeed, a map submitted at the hearing identifies 4 sites where the respective land owners were approached, and positive responses were not forthcoming. Nonetheless, in the context of the Winchcombe parish taken as a whole, the extent of alternative site investigation undertaken has been limited. The appellant's rationale for the targeted nature of its search is based, in-part, on much of the parish falling within the Cotswolds Area of Outstanding Natural Beauty (the AONB).
13. However, whilst I acknowledge that the National Planning Policy Framework (February 2019) (the Framework) indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, this does not to my mind rule out sensitively designed schemes being brought forward. Indeed, the Council has made me aware of rural exception sites elsewhere within the parish and within the AONB where planning permission has been granted for housing development in recent years. It was also made clear at the Hearing that, with respect to emerging housing allocations, its search for sites has been based around the town of Winchcombe itself notwithstanding the likelihood of land falling under AONB designation.
14. Policy 3.2 of the NP sets out requirements for affordable housing where new homes are proposed (either inside or outside the AONB). The supporting text outlining the reason for this policy sets out that affordable housing should be made within the town and that developments on AONB sites at the edge of the town should be assessed against policies in the NP rather than through any rural exceptions policy. Nevertheless, the inference that edge-of-town sites in the AONB should not be considered for rural exception purposes is not repeated in Policy SD12, nor in its supporting text or, to my knowledge, anywhere else in the JCS or wider development plan. I also note that the JCS was adopted after the NP was made.
15. Further influencing the appellant's investigation of alternative sites, a strategic gap between the settlements of Winchcombe and Greet was referenced that is anticipated to be given policy protection from development through the ETBP. It is my understanding that this concept was acknowledged in background papers associated to the JCS. It is nevertheless not specifically referred to in the now adopted JCS's policies. The ETBP is at an early stage such that any protection afforded to a strategic gap by its emerging policies holds limited weight.
16. I accept that it is unclear at this stage where homes will be delivered to fully satisfy the identified need for affordable homes in the parish. The 13 affordable units that are proposed would undoubtedly make a valuable

contribution in supply terms. Nevertheless, the parish is wide in geographic extent and would realistically be expected to offer opportunities for rural exception development elsewhere and it has not been clearly demonstrated otherwise. In this context I shall consider how the specific proposal before me relates to the settlement of Littleworth.

17. Littleworth is formed of a small hamlet of approximately 17 dwellings, all of which are situated to the western side of the Evesham Road. The existing dwellings provide a linear frontage to the road. In addition, beyond this linear frontage, a limited number of properties front either side of a lane that runs westwards from this road. Dwellings can generally be observed to be closely positioned to each other such that a small, typically linear and compactly laid out settlement is in existence.
18. The appeal site is situated on the opposite side of Evesham Road to the residential properties that comprise Littleworth. It contains various setback and dilapidated structures associated with past poultry farm activities at the site and does not read as part of Littleworth. That said, particularly given its Evesham Road frontage, I am satisfied that the site could accurately be described as situated on the edge of the settlement.
19. The scale of development proposed is substantial when considered in the context of Littleworth's current size and composition. Indeed, the number of dwellings intended would more than double the number that currently exist. The site's shape, which provides only a narrow frontage to Evesham Road, would not allow the proposed development to mirror nor respect the pattern of development in place on the opposite side of the road. Indeed, the site's awkward configuration would necessarily and uncharacteristically promote a considerable amount of development occurring at depth away from the site's Evesham Road frontage as illustrated indicatively on the submitted site plan. The scale of development proposed is thus not well related to Littleworth in terms of design.
20. Furthermore, Littleworth is a settlement that contains no facilities and services. The nearest settlement capable of serving the day-to-day needs of Littleworth residents is Winchcombe. The route from the site to Winchcombe is not conveniently navigable on foot, not least due to a lack of footpaths and the distance involved. As agreed by the main parties to this appeal, future residents would be highly dependent upon private modes of transportation to serve their day-to-day needs.
21. The Framework states that housing should be located where it will enhance or maintain the vitality of rural communities and recognises that opportunities to maximise sustainable transport will vary between urban and rural areas. However, the Framework also confirms that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Whilst development in Littleworth may ultimately support services in settlements nearby, the scale of development proposed is significant and thus not well related to Littleworth, a small rural hamlet, in functional terms.
22. For the above reasons, the appeal site does not meet the criteria set out for a rural exception site and thus does not represent an appropriate location for the proposed development having regard to the development plan. The scheme conflicts with Policy SD12 of the JCS.

23. On the basis that the site does not meet the necessary criteria to be considered a rural exception site, the proposal also conflicts with Policies SP2 and SD10 of the JCS in so far as these policies set out the planned distribution of new development across the plan period. As the proposal is not for infill development, Policy 3.1 of the NP is of limited relevance to my considerations here.

The proportion of affordable housing and the scheme's viability

24. Policy SD12 sets out that where a development cannot deliver the full affordable housing requirement (100% provision in the case of rural exception development) a viability assessment will be required. Indeed, in the policy's supporting text it is confirmed that, when considering proposals for housing on rural exception sites, it will be considered whether allowing a limited proportion of market housing would facilitate the provision of new affordable housing.
25. It is proposed that 11 market dwellings come forward on-site in order to cross-subsidise the delivery of a further 13 affordable homes of mixed tenure. In advance of the Hearing an Updated Affordable Housing Viability Assessment (4 October 2019) (the UAHVA) was submitted by the appellant. This sets out various predicted outputs and inputs and calculates that the development, as a whole, would return an approximate 16% profit.
26. As set out in the Planning Practice Guidance, alternative uses can be used to inform the benchmark land value of a site but should be limited to those uses which would fully comply with up-to-date development plan policies. The benchmark land value used in the UAHVA is based on a policy-compliant rural exception scheme providing 100% affordable housing, rather than the site's existing use value. However, considering my findings with respect to the first main issue of this appeal, the site does not represent a rural exception site. Thus, an inflated land value has been used as an output in the UAHVA without justification.
27. I note that viability appraisals have been reviewed elsewhere in the Borough predicated on the principle that rural exception development was acceptable. This includes a site at Norton where a near identical split of market and affordable homes was proposed. It is however evident that the assessor in that case was advised that the Council was supportive in principle of the scheme in question being identified as a rural exception site, which is not the case here.
28. On the basis that an alternative use value has been incorrectly used to inform the site's benchmark land value, it has not been robustly demonstrated that the scheme cannot sustain a greater proportion of affordable homes when compared to that proposed. Thus, the proposed development would not deliver an appropriate proportion of affordable housing, having particular regard to the scheme's viability. The scheme conflicts with Policy SD12 of the JCS in so far as it sets out that the delivery of less than the full affordable housing requirement shall be dependent on viability assessment conforming to an agreed methodology.

Mix of house types

29. A submitted indicative House Types plan illustrates the provision of a range of different property types and property sizes. The mix reflects a general need for

2 and 3 bedroom dwellings across the Borough. The Council has pinpointed relatively minor discrepancies between the mix of on-site affordable homes proposed when compared to what they consider to be the ideal mix to meet identified need. However, the proposal is in outline form and I am satisfied that any such discrepancies could be ironed out at detailed planning stage. Indeed, the UU has been prepared on this basis.

30. For the above reasons, the proposed mix of house types is appropriate. The proposal accords with Policy SD11 of the JCS and with Policy 3.2 of the NP in so far as these policies require that housing developments provide an appropriate mix of dwelling sizes, types and tenures in order to contribute to mixed and balanced communities and a balanced housing market.

Character and appearance

31. The appeal site is made up of an irregularly shaped area of land that contains various structures associated with its past use as a poultry farm. These include 2 large sheds of rectangular footprint set away from Evesham Road, as well as a small number of more modestly sized structures set closer to the site's frontage, including a building that I understand was once occupied in a residential capacity. The site, upon inspection, was overgrown and the buildings were in varying states of dilapidation and disrepair.
32. The site is located within a Special Landscape Area (SLA) and, notwithstanding its proximity to both Littleworth and Greet, much of the site's surroundings are inherently rural in character and appearance and consist of predominantly pastoral and often undulating agricultural fields. The development pattern in the area is dispersed and largely confined to ribbons of development along highway routes, such as Evesham Road and Market Lane, as well as scattered agricultural buildings.
33. I accept that the existing neglected nature of the site's buildings does not contribute positively to the area's character and appearance. However, particularly with respect to the larger buildings on site, their former agricultural function can still be read through their simplistic utilitarian form. Furthermore, as observed by the Council, a sense of the site being reclaimed by nature is very much in evidence. The extent of the existing buildings' influence upon the character and appearance of the site and its surroundings is thus tempered.
34. The Council considered at the Hearing that any views of the scheme obtainable from long distance would be regrettable rather than unduly harmful. Furthermore, I am satisfied that, due to the distances involved, the proposal would have a minimal effect upon the setting of the AONB. Nevertheless, the scheme would have a noticeable presence when observed from various nearby publicly accessible routes including Evesham Road and designated public rights of way.
35. Any supplemental landscaping ultimately proposed to the site's boundaries in the interests of providing visual mitigation would take time to properly establish, would be reliant on continual management to maintain a consistent buffer to views and, if substantial in extent, would be unlikely to allow the development to integrate effectively with its receiving environment.
36. Whilst the proposal is in outline form such that the layout and precise composition of the scheme is not yet known, the development of 24no.

dwellings across the site would be out of character with the area's development pattern and with Littleworth's typically linear form. This is particularly when considering that much of the appeal site's area is set away from Evesham Road. A residential development of the site, at the quantum proposed, would appear as an urbanising out-of-character intrusion into the open countryside.

37. For the above reasons, the proposal would cause harm to the character and appearance of the area. The proposal conflicts with Policies SD4 and SD6 of the JCS in so far as these policies require that development will protect or enhance landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement or area.

Other Matters

38. Appeal decisions¹ relating to rural exception development elsewhere are before me but are of limited relevance as they relate to proposals considered against different development plans. In any event, each proposal must be considered on its own individual merits in light of the specific site circumstances to hand. Furthermore, an advice note² relating to Cornwall, an area remote to Tewkesbury Borough, is of little relevance.
39. Given that I have found the proposal unacceptable for other reasons, it is not necessary for me to consider the UU in full. I nonetheless note that it secures the provision of 13 on-site affordable homes for persons with a local connection, which I shall take forward to my planning balance.
40. I have noted objections raised by interested parties with respect to matters including highway safety and drainage. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.

Planning Balance

41. In the evidence before me the Council has accepted that it cannot currently demonstrate a five-year supply of deliverable housing sites. Indeed, a supply figure of 4.33 years has been agreed by the main parties to this appeal which represents a significant shortfall. The Framework is clear that in such circumstances the presumption in favour of sustainable development, as set out under paragraph 11 of the Framework, applies. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
42. I have identified conflict with Policy SD12 of the recently adopted JCS. This policy sets out the approach to delivering new affordable housing and is consistent with the Framework, particularly in so far as it supports the bringing forward of rural exception sites to deliver affordable housing to meet an identified local need. I have also identified conflict with Policies SD4 and SD6 of the JCS, which relate to landscape and design requirements. They are broadly consistent with the Framework, which recognises the intrinsic character and beauty of the countryside and states that developments should be sympathetic to local character and landscape setting. These policies seem to

¹ APP/D0840/W/17/3171099 and APP/C3810/W/18/3209249

² Chief Planning Officer's Advice Note: Infill/Rounding Off

me to be the most important for determining this appeal and I afford the conflict with them very substantial weight.

43. I have also found conflict with Policies SP2 and SD10, which relate to the distribution of housing development. Proposals within the Borough's rural area are only supported in certain circumstances and the supporting text to Policy SD10 explains that outside cities, towns, rural service centres and service villages, there are generally insufficient facilities to support development and so they are not considered sustainable locations for residential development. These policies are however associated with the supply of housing and, in this case, I afford the conflict with them limited weight due to the Council's housing land supply deficit.
44. Turning to the scheme's benefits, it would deliver 24no. residential units in a Borough where a five-year supply of housing cannot currently be demonstrated. Furthermore, 13no. of the units would be affordable and tailored to meet a specific and locally identified need. Taking account of the very considerable need for affordable housing and the inability of the Council to meet its short-term housing requirements I consider that these are important benefits that attract very significant weight. The scheme would also generate jobs during its construction phase as well as expenditure in the local economy once occupied, these are benefits that attract limited weight given the relatively modest scale (in Borough-wide terms) of development under consideration. I also attach only limited weight to the potential improvements in local facilities that would be expected as a result of a CIL contribution, noting that it is unclear at this stage what project(s) would be invested in.
45. Having considered the benefits and adverse impacts of the scheme before me, I conclude that the harm and policy conflict that I have identified would significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole. The presumption in favour of sustainable development, as set out in the Framework, does not apply therefore.

Conclusion

46. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Emmaline Lambert	of Counsel
Deborah Giblin	Coolglas Developments Ltd
David Jones	Director, Evans Jones
Chris Marsh	Senior Planner, Evans Jones
Paul Harris CMLI	Director, MHP

FOR THE LOCAL PLANNING AUTHORITY

Cheryl Lester	Chief Planning Lawyer
Gary Spencer	Planning Solicitor
Matthew Barker	Planning Policy Manager
Lisa Dixon	Senior Planning Officer
Alice Goodall BSc MA MRTPI	Urban Design Officer
John Bryant	Strategic Housing and Enabling Officer
Toby Jones	Landscape Consultant, Toby Jones Associates Ltd
Tony Williams	Head of Viability, Valuation Office Agency
Mark Phillips	Senior Surveyor, Valuation Office Agency

INTERESTED PERSONS

Dinah Betts	Local resident
Anthony Richards	Local resident
Janet Woods	Local resident
Lindsey Hodgson	Local resident
David Charlton	Local resident
Sylvia Richards	Local resident

DOCUMENTS RECEIVED AT THE HEARING

1. Map detailing landowners approached regarding rural exception sites
2. Tewkesbury Borough Council Open Space Study Standards Paper (November 2016)
3. Signed Unilateral Undertaking dated 15 October 2019
4. Note confirming appellant's acceptance to pre-commencement conditions dated 15 October 2019