



Appeal Decision

Site visit made on 19 November 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2019.

Appeal Ref: APP/Y1138/W/19/3235159

Halberton Court Farm, High Street, Halberton EX16 7AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr A Stevens against Mid Devon District Council.
 - The application Ref 18/00518/MFUL, is dated 28 March 2018.
 - The development proposed is erection of 40 no. dwellings, conversion of barns to 7 no. dwellings, formation of new accesses and car parking areas, with associated works including access and landscaping.
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Decision

1. The appeal is dismissed and planning permission for the erection of 40 no. dwellings, conversion of barns to 7 no. dwellings, formation of new accesses and car parking areas, with associated works including access and landscaping is refused.

Background and Main Issue

2. The appeal arises from the failure of the Council to give notice within the prescribed period of a decision on the planning application. From the Council's appeal statement, it is clear that the main area of dispute between the Council and appellant is whether the proposal would cause harm to designated heritage assets.
3. In its concluding section, the Council's appeal statement also sets out that there would be harm to the landscape qualities of the area. However, this assertion does not follow a clear analysis of the issue and the same paragraph also notes that the houses and materials have been carefully considered and generally fit in to the village and wider landscape. Therefore, I do not consider the effect on the character and appearance of the area to be a main issue.
4. The Council's submissions that it can demonstrate more than 5 years supply of deliverable housing land, with the relevant buffer, are not disputed. However, there is also no dispute that 3 policies of the Mid Devon Core Strategy (2007) (CS), namely COR3, COR17, and COR18 which together set out policies for housing growth and control over the location for development across the District, are out of date and inconsistent with the National Planning Policy Framework (the Framework). I consider this situation further, later in my decision.

5. There is an emerging development plan that has been subject to examination. However, there is no dispute between the Council and appellant that it should only receive limited weight. I have no reason to disagree.
6. There have been delays in the appellant providing a completed planning obligation and one is yet to be submitted. The time to do so, within the appeal timetable, has now passed. In reaching my decision, I have attributed weight to those matters set out in the draft obligation as if a suitable obligation to secure their delivery had been provided. Therefore, whilst I understand that the submission of such a document is imminent, in light of my findings in respect of the appeal overall, the planning obligation would not have been determinative in any case.
7. With regard to the above, the main issue in this appeal is the effect of the development on the significance of designated heritage assets, with particular regard to the Character and Appearance of the Halberton Conservation Area and the setting of St Andrew's Church.

Reasons

8. The Halberton Conservation Area covers a large part of the settlement. Its character and appearance is largely derived from the various designated and non-designated heritage assets within a broader rural setting. There is a fairly dense arrangement of dwellings along the main road between Sampford Peverell and Tiverton, with a looser built form around the area known as Lower Town and Pond Hill that connects those two distinct areas.
9. The appellant's 'Settings Assessment'¹ cites the Halberton Conservation Area Appraisal (CAA) in noting that the rural nature of the settlement is emphasised by links to the countryside provided, in part, by views through the village and parcels of open land. Indeed, the CAA identifies various visually important spaces, two of which are within the application site. One of those areas, close to the village pond, would remain undeveloped and, being proposed as open space may afford better appreciation of the pond by the wider community.
10. However, another open space would be developed for a new car park designed to serve the primary school and church, would incorporate a new vehicular access to part of the site and some dwellings. This open space is continuous with a wider area of open space that forms an open, generally undeveloped settlement edge beyond St. Andrew's church. That area, therefore, is important to the relationship of the settlement to the surrounding countryside.
11. Whilst the car park would remain largely open, and could be surfaced with a grassed appearance, the dwellings would significantly impose upon this open area, disrupting views out to the surrounding countryside and diminishing its contribution to the character and appearance of the conservation area. Such would cause some harm to the significance of the conservation area as an historic settlement with strong connections to its rural hinterland.
12. It may well be that there are aspects of the proposal that enhance the character and appearance of the conservation area such as the removal of bulky and visually dominating modern agricultural buildings, together with the

¹ Context One Archaeological Services Ltd (2016) Halberton Court Farm, Halberton, Devon: An Archaeological Desk-Based Assessment with Settings Assessment

- sympathetic conversion of the historic barns. Such may better reveal the history of the barns and significance of this part of the conservation area.
13. However, the barns would remain surrounded by modern development in the form of new housing. Whilst this may be less bulky and more articulated than the expansive farm buildings that they would replace, any resulting enhancement to the conservation area from the improvements to the barns and overall farmyard would not be significant. There may also be some decrease in traffic around the church and school, as a consequence of the new car park, improving the tranquillity of that area. However, there is no substantive evidence as to the extent of this effect so I attribute it limited weight.
 14. The provision of some new dwellings around the converted barns may be representative of the historic tendency for dwellings to be grouped close to the centre of the village, in this case around the church. However, whilst providing dwellings alongside the proposed car park could improve surveillance of that area, there is no substantive evidence as to why the visually important space needs to be developed to secure other betterment and potential enhancements to the character and appearance of the conservation area.
 15. Overall, the potential enhancements to the conservation area would be insufficient to counter the harm in respect of the encroachment into the visually important space. Therefore, the development would cause some harm to the character and appearance of the conservation area.
 16. There is a further part of the site on the opposite side of the main road, which is outside the conservation area. Development here is likely to affect some views into the conservation area, but standing apart from the historic core of the village would not have a significant effect on its character and appearance.
 17. On approach along the main road from Tiverton, housing in this further development area would not impinge on the sweep of visually important space around the church or the general views out to the open countryside. Similarly, when viewed from closest part of the Great Western Canal, this housing would be seen slightly to the side of the church and historic core. The further development across the road would not, therefore, impose upon the main part of the village nor cause demonstrable harm to the setting of the conservation area.
 18. Turning to the setting of St. Andrew's Church, the appellant's Settings Assessment describes that the significance of the church is derived from its evidential and aesthetic value and its historic and continuing role within the community. It goes on to suggest that its location within the historic core is indicative of its central position in the settlement, whilst also sitting to the edge of the settlement giving a clear indication that it serves a wider agricultural community.
 19. In mid-distant views, such as from the Great Western Canal, the church is generally seen alongside the existing built form in the farmyard. The relative levels of the application site and church mean that the church tower would remain visible and the dominant feature in the townscape.
 20. However, the development of houses within the visually important open space discussed above would affect views out from the churchyard. Whilst the

connection to the rural hinterland may be only a minor element of the church's overall significance, it would nevertheless undermine this relationship. Other improvements to the historic farm buildings and the removal of modern buildings would not adequately compensate for the interruption of these outward views. The churchyard, and thereby the setting of the church, would become more visually enclosed and this would detrimentally change the way that the asset was experienced, undermining its general aesthetic significance. Although visual links would remain between the church and other important, related listed buildings in the vicinity, I therefore find that some limited harm would arise to the setting of the St. Andrew's Church.

21. The development would bring built form of the Halberton closer to the Great Western Canal, but it would remain some distance from it. The setting of the canal at this point within a wider rural landscape would be largely unaltered. Whilst the development, particularly that on the side of the road closest to the canal, would be clearly visible from the towpath, there is no substantive evidence that the currently agricultural appearance of this relatively small parcel of land makes a meaningful contribution to the setting of the canal or its significance. Nor is there any substantive evidence of harm to the numerous other listed buildings within the vicinity of the site.
22. The harm that I have found to the character and appearance of the conservation area and the setting of St. Andrew's Church brings the proposal into conflict with those aims of CS Policy COR2 and Policy DM2 of the Mid Devon Local Plan Part 3: Development Management Policies 2013 (LP) that seek to ensure the preservation or enhancement of heritage assets.

Other matters

23. The proposal would bring a number of benefits. In particular the Framework strongly encourages the delivery of housing and the proposal would make a significant contribution to the provision of affordable housing for which I understand there to be an unmet need within Halberton. Halberton is identified in the development plan as a location that could accommodate some growth and provides some services that could be accessed without reliance on the private car, as well as good public transport links. However, whilst I have no particular evidence of how affordable housing needs may be met elsewhere in the village, there is equally no robust evidence that it cannot be. As there is no dispute that the Council can currently demonstrate a sufficient supply of housing land, I attach only moderate weight to these benefits.
24. The provision of additional car parking, primarily to serve the primary school and church would also be a benefit. I noted during my site visit that there appeared to be limited parking provision around these facilities within the core of the village. However, whilst there is some local support for the parking provision there is no robust evidence that these facilities have struggled to function viably or require for more parking other than for enhanced convenience. Therefore, I attribute this benefit limited weight.
25. The proposals to mitigate flood risk from a potential breach of the Grand Western Canal may also result in some reduction in flood risk to other properties in the area. However, the extent of any potential benefit is not clear and as this is primarily a scheme to mitigate flood risk to the proposed development, I attribute only limited weight to these benefits. There would

also be some employment opportunities generated during construction but, as they would be relatively short-lived, they receive only limited weight.

26. I understand that the appellant engaged in extensive pre-application discussions involving the Council and local community. However, whilst many of the Council's recommendations may have been adopted in the final design, which may in itself be of a high quality, harm would still arise.

Planning balance

27. I have found that harm would arise to designated heritage assets. Whilst the harm would be limited, Framework paragraph 193 indicates that great weight should be given to the assets' conservation, irrespective of the level of harm. Given that there would be harm to the setting of the highly graded St. Andrew's Church, this weight should be further increased.
28. Framework paragraph 196 requires that the less than substantial harm that I have found should be weighed against the public benefits of the proposal. In light of the weight that I have attributed to the various other matters, these do not outweigh the great weight that I must attribute to the assets' conservation. In the context of the Framework read as a whole, this balance provides a clear reason for refusing the development proposed.
29. As set out in footnote 6 to Framework paragraph 11, paragraph 196 is a policy to protect assets of particular importance. Therefore, even though there is no dispute that CS Policies COR3, COR17 and COR18 are out of date, Framework Paragraph 11(d) does not indicate that permission should be granted. The presumption in favour of sustainable development outlined at Framework paragraph 11 does not, therefore, apply. The Framework, read as a whole, does not weigh in favour of the proposal, instead indicating that permission should be refused.
30. As the public benefits would not outweigh the less than substantial harm to the heritage assets, there would also be a conflict with LP Policy DM27, which echoes this requirement. Part of the site is also outside the defined settlement limits for Halberton and, therefore, conflicts with CS Policies COR17 and COR18 which seek to prevent residential development outside the defined villages.
31. Whilst, being out of date may well reduce the weight that I attach to such a conflict with Policies COR17 and COR18, when read together with CS Policy COR2 and LP Policies DM2 and DM27, there is a conflict with the development plan, read as a whole. Given its similarity to Framework paragraph 196, the conflict with Policy DM27 should receive full weight. In light of the weight that I have attributed to the other matters, and particularly my findings in respect of the Framework which indicate permission should be refused, material considerations do not warrant a decision otherwise than in accordance with the development plan.

Conclusion

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

M Bale

INSPECTOR