



Appeal Decision

Site visit made on 21 October 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2019

Appeal Ref: APP/H2835/W/19/3234912

Brookhill Farm, 6 Main Road, Earls Barton, Northamptonshire NN8 2UF

- 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 Mr Simon Marriott against the decision of Borough Council of Wellingborough.
 - The application Ref WP/19/00254/FUL, dated 18 April 2019, was refused by notice dated 13 June 2019.
 - The development proposed is "two houses with separate garages built onto the site of old store building/hardstanding. They will appear as dormer bungalows viewed from the direction of the A4500. The houses are located close to the existing restored farmhouse and along the line of a significant ground level change crossing the site at that location. The proposals reflect the elements of construction of the farmhouse and neighbouring development to the northeast: white rendered external walls and slate roofs. The new house development is also restricted to the footprint and hardstanding of an old store building. New garages with storage over are proposed in similar construction next to the southwest boundary of the site where similar proportioned buildings are now being constructed".
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Decision

1. The appeal is dismissed.

Procedural matters

2. The address on the application form is incomplete, I have taken the full details from the decision notice for clarity.
3. I have used the description of development given on the application form as there is no confirmation in the appeal documents that the amended description given on the Council's decision was agreed between the parties.

Main Issues

4. The main issues are:
 - the effect of the proposed dwellings on the character and appearance of the area,
 - whether the appeal site offers a suitable location for new housing development, having regard to the Council's settlement strategy policies and the National Planning Policy Framework (The Framework),
 - the effect of the proposal on highway safety with particular regard to access arrangements, and

- the effect of the proposed dwellings on the integrity of the Upper Nene Valley Gravel Pits Special Protection Area (UNVGP SPA).

Reasons

Character and appearance

5. The appeal site is within a relatively large plot. This includes a field and lawn area either side of the driveway to the front, an existing farmhouse, a large store and lower field to the rear. The area of land, the subject of the appeal, is occupied by a single-storey store and adjacent hardstanding. The store is subdued and low-profile on the top of an embankment. Beyond the store, the land falls away to the lower field. The farmhouse and adjacent cluster of dwellings sit on generally wide spacious plots. Despite some boundary screening, the site is exposed and visible from wide views to the front and rear. The site makes a positive contribution to the rural character and appearance of the area.
6. The proposal would replace the existing store with two dwellings and includes the erection of a large garage block. The proposed dwellings would be on the embankment, presenting first-floor dormer windows towards the highway and displaying two-storeys to the rear with an exposed basement level. The proposed garage block would be perpendicular to the highway with a large gable end presenting two floors of fenestration. The proposal would introduce new built form into the currently open view between the existing buildings. These would not integrate well with the existing rural setting. It would also include a substantial first-floor that would emphasise the scale of the garages and dominate the space. The combined effect of both the proposed dwellings and garage would be harmful to the character and appearance of the site and surrounding area.
7. The design of both the dwellings and garage block would be simple and replicate some of the features evident within local built vernacular. However, the resultant effect of the proposal would be an overt and harmful addition to the landscape. The use of appropriate building materials, landscaping and window details could be agreed through the use of planning conditions. However, the scale and form of development would be inappropriate for this context irrespective of detailed matters. Furthermore, the Council's guidance for the design of household extensions is of limited relevance in considering the impact of the proposal for new dwellings. Moreover, the harm identified would not be significantly reduced through the offered removal of the side windows of the proposed garage.
8. Consequently, the proposal would not accord with policies 3 and 8(d)(i and ii) of the North Northamptonshire Joint Core Strategy (JCS) (2016) which, amongst other things, seek development that would enhance the landscape character of an area and respond to the site's immediate and wider context. Furthermore, the proposal would not satisfy policy EB.D1 of the Earls Barton Neighbourhood Plan (2011-2031) (NP) which requires development to be a high standard of design.

Locational suitability

9. The Development Plan for the district includes the JCS, the Plan for the Borough of Wellingborough (LP) (2019) and the NP. Policies 11 and 13 of the

- JCS, identify the Council's spatial housing policies. Policy 11 establishes that development will be distributed in accordance with Table 1. This seeks to focus the majority of new housing in sustainable urban extensions. The policy also seeks to carefully manage development in the open countryside, to safeguard its intrinsic character and beauty. Policy 13 relates to rural exceptions and explains that development adjoining settlement boundaries may be permitted if it meets an identified local need, is well related to a settlement that offers services and employment and is accessible and appropriate to the surroundings. It also states that in the open countryside, away from settlement boundaries, housing would only be approved if it is of exceptional quality or be for agricultural workers.
10. The appeal site is located on the A4500 outside of Earls Barton. It is common ground that the site is outside the settlement boundary as defined by the NP. Earls Barton is categorised in table 1 as a 'named settlement', this only allows for small scale infill development and locally identified opportunities.
 11. The site is not isolated being within a small cluster of dwellings and adjacent to a major highway. In such circumstances, Paragraph 77-78 of the Framework seeks to support rural exception sites that provide affordable housing to meet identified local needs. Furthermore, this seeks to promote sustainable development of rural housing where it can be located where it would enhance or maintain the vitality of rural communities and local services. It also requires regard to be had to the benefits of development in one village that may support services in another.
 12. The site is around 500m from Earls Barton. There is a footpath on the southern side of Main Road, opposite the site. The site is therefore moderately accessible for pedestrians, but many would be deterred from crossing the road and walking alongside this relatively busy classified road. The highway is also without streetlights and unlikely to be used by pedestrians after dark. As such, pedestrians would be unlikely to frequently walk to the village and the site is not well located in that regard. Also, although the site is within a 5-minute walk of bus stops, the nature of the footpath would be a disincentive for users for the reasons outlined above. The site would therefore be mostly reliant on car borne travel to access local services and facilities. It is therefore not considered to be in an accessible location. Moreover, two dwellings would make only a limited contribution to the vitality of the relatively large nearby settlement.
 13. Consequently, the proposal would not accord with policies 11 and 13 of the JCS which seeks development that strengthens the network of settlements and is well related to a settlement in an accessible location. Also, the proposal would not accord with policy H6 of the LP, which seeks to support self-build affordable housing as exception sites. Furthermore, the proposal would not satisfy policy EB.GD2 of the NP which requires any exception sites abutting the village to meet a local need for affordable housing. Moreover, the proposal would not be in accordance with the Framework which supports rural housing where it would enhance or maintain the vitality of a rural community.

Highway safety

14. The proposal would use the existing driveway access from the A4500. The highway has a central reservation. There is a gap in the reservation opposite the access to allow right-hand turns into and from the access. The access connects to the highway on a slight gradient. The highway is relatively straight

and flat for some distance in both directions. As such, the access provides good visibility in both directions.

15. The proposal would intensify the use of the access and associated single-width driveway. This could increase risk to highway safety, especially in regard to cars waiting in the carriageway for a vehicle leaving the site to clear the access. Furthermore, the access area is not of sufficient width to enable two vehicles to safely pass and be fully off the highway. The Council seeks the driveway to be widened and the appellant has offered several potential solutions to this issue. Consequently, I am satisfied that highway safety would not be substantially harmed. Furthermore, minor revisions to widen the access drive could be secured to accommodate the necessary alterations. Such measures could be secured by a suitably worded condition. Nevertheless, as I am dismissing this case for other reasons, I have not explored this matter further.
16. As such, the proposal would accord with policy 8(b)(i) of the JCS, which seeks to resist development that would prejudice highway safety. Also, the proposal would satisfy the Framework which seeks to prevent development that would have an unacceptable impact on highway safety.

Special protection area

17. Policy 4 of the JCS requires that development that is likely to have an adverse effect, either alone or in combination on the SPA, must satisfy the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and avoid or mitigate impacts where identified. In these circumstances, the Habitat Regulations require that an Appropriate Assessment (AA) is carried out. In 2018 the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an AA rather than at the screening stage¹. Although the Council has withdrawn its objection to the effect of the proposal on the SPA, this responsibility now falls to me within this appeal.
18. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European sites. The site is within a 3km buffer zone of the UNVGP SPA. The SPA is a wetland habitat for non-breeding waterbirds. Main parties and Natural England are in agreement that the proposed development is likely to have significant effects on the features of interest of the SPA, due to the increased recreational use generated by the proposed development, alone or in combination with other development. I have no reason to disagree with this conclusion.
19. I understand from evidence that the primary causes of disturbance from the net increase of new residential units would be from increased activity, such as by people and by dog walking. Due to its proximity to the SPA there is a reasonable likelihood that it would be accessed for recreational purposes by future occupiers of the development. Although this may be minimal by itself, a significant effect on the integrity of the SPA would occur, when considered in combination with other residential development in the surrounding area. The Council's UNVGP SPA Supplementary Planning Document 2015 establishes a consistent approach to identifying potential effects on the SPA's qualifying features.

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

20. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the site. Due to the small scale of the proposed development there is no scope to provide on-site mitigation. However, Natural England and the Council have agreed a strategic solution to mitigate the effects, in the form of a Strategic Access Management and Monitoring Measures (SAMMM). This requires standalone payments from developers to prevent harm to the integrity of the European Site.
21. The Mitigation Strategy² was adopted in 2016 and sets out the required SAMMM for the type of development proposed. The appellant has made a mitigation payment of £538.88 under section 111 of the Local Government Act 1972, Section 12 and Section 93 of the Local Government Act 2003 and Section 1 of the Localism Act 2011 (the Section 111 Agreement). This would contribute to the cost of measures identified in the SAMMM to mitigate the incremental effect of development within the SPA. However, that is not the end of the matter as I need to be certain that the payment now paid would be used for its intended purpose as mitigation.
22. The Council's AA illustrates that the sum collected would fund a range of measures including fencing and screening, footpath diversions, wardening and monitoring in accordance with the SAMMM. I see no reason why the mitigation would not be delivered by the Council in accordance with the agreed mitigation. On this understanding, I am satisfied that the proposal would not adversely affect the integrity of the UNVGP SPA.
23. Accordingly, following Appropriate Assessment I find that the proposal would satisfy policy 4 of the JCS, that requires development to mitigate the impact of development with appropriate mitigation.

Other matters

24. The appellant asserted that the Council cannot show a 5-year supply of housing land. However, I find the 2019 Housing supply report³ to be compelling and shows a substantial provision in excess of 5-years. Furthermore, the Housing Test Measure (HTM) shows that to date the Council is performing well in its delivery of housing to the market. It also refers to engagement with developers regarding the delivery of key sites. Consequently, if the appellant's conjecture is accurate it will be for later years to see a reduction in the HTM which might then illustrate a deficiency in the Council's rate of housing delivery. In any event, even in the unlikely situation that the Council's delivery is falling significantly short of expectations, the provision of two dwellings would make only a minimal contribution to local housing stock. This limited benefit would not outweigh the harm I have identified to the Development Plan in regard to the Council's spatial housing policies and to the character and appearance of the area
25. An appeal decision has been drawn to my attention in Wychavon⁴. In that case the Inspector determined that the ability to demonstrate a 5-year HLS should not be seen as a maximum. He went on to apply the presumption in favour of sustainable development. He found the benefits outweighed the limited harm

² The Upper Nene Valley Gravel Pits Special Protection Area SPD, Mitigation Strategy 2016

³ Borough Council of Wellingborough – Housing Land Supply Report 2019

⁴ Planning Appeal Reference: APP/H1840/W/15/3005494

found to the proposal being in conflict with the Council's settlement boundary policy. As I have found significant harm to the development plan that decision has limited comparable factors.

26. The Bungalow, adjacent to the appeal site, gained approval for an additional floor⁵ and a garage block⁶. The officer report considered distance and elevation to partly mitigate the harm to views from the main road. Although each case must be considered on its own merits, these appear to be less significant interventions into the landscape than the proposal.
27. An application was approved to extend Brookhill House in 2013⁷ with several additions. These extensions appear to have improved the existing building with relatively minor additions. It is therefore difficult to clearly identify comparable elements to the proposal.
28. The Framework provides support for development on previously-developed land. On the basis that the site could be considered previously-developed, this support does not outweigh the conflict that I have found with the development plan.

Planning balance and conclusion

29. The framework seeks to significantly boost the supply of housing. The proposal would deliver a range of benefits outlined by the appellant including support for the local construction industry, new occupiers spending money in the local community and in providing homes that include solar panels and a ground source heat pump. However, these measures do not outweigh the harm identified to the Council's spatial housing strategy or to the character and appearance of the area. Therefore, the identified conflict with the development plan is not outweighed by other material considerations.
30. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR

⁵ Planning Application Reference: WP/18/00636/FUL

⁶ Planning Application Reference: WP/19/00390/FUL

⁷ Planning Application Reference: WP/2013/0410