
Appeal Decision

Site visit made on 12 November 2019

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2020

Appeal Ref: APP/K2420/W/19/3234826

Land adjacent 121 Station Road, Bagworth, Leicestershire LE67 1BJ

- 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 Atul Lakhani, Farland Trading Ltd. against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 16/00758/FUL, dated 17 August 2016, was refused by notice dated 28 May 2019.
 - The development proposed is the erection of 10 no dwellings and 2 no flats (100% affordable scheme).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 10 no dwellings and 2 no flats (100% affordable scheme) at land adjacent 121 Station Road, Bagworth, Leicestershire LE67 1BJ in accordance with the terms of the application, Ref 16/00758/FUL, dated 17 August 2016, subject to the conditions in the attached Schedule.

Procedural Matters

2. The description of development provided on the original application form proposed 10 dwellings and 4 flats. The scheme was subsequently amended to provide 10 dwellings and 2 flats. I have therefore used the description of development from the Appeal Form as this now accurately describes the proposed development.
3. The Appellant has confirmed that the name given on the original application form was incorrect. I have therefore used the name Mr Atul Lakhani of Farland Trading Ltd, as detailed on the appeal form and the Council's decision, in the above heading.
4. The Appellant has provided a signed legal agreement dated 22 October 2019 to secure the on-site affordable housing. I have had regard to this in my consideration of the appeal.

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site comprises a piece of vacant land fronting onto Station Road, set between Maynards Close and an access road leading to a sports ground. The surrounding area is predominantly residential, with a mix of road frontage properties along Station Road and more in-depth estate developments including Maynards Close, Maynards Walk and Warwick Close on the opposite side of Station Road. A sports field is located adjacent to the south west and further along Station Road are some small commercial properties including a new shop. The site is currently fenced off with security fencing and is somewhat overgrown and it is allocated for housing in the Hinckley & Bosworth Borough Council Site Allocations and Development Management Policies DPD (2016) (DPD). There have been previous planning permissions granted for dwellings and a shop on the site.
7. The proposed development would introduce 12 properties into the site, comprising 10 dwellings and 2 flats. The submitted layout shows the dwellings sited around the perimeter of the appeal site, fronting onto Station Road and the adjacent access road. The proposed vehicular access into the site would be from the existing tarmac field access, which would lead to a shared internal driveway and vehicular parking. All of the proposed dwellings would be two-storey in height and would comprise of semi-detached and terraced properties with the inclusion of 2 flats on plots 6 and 7.
8. The Council advise that they cannot currently demonstrate a 5-year supply of housing land, and that the housing policies of the local plan are considered to be out of date as a result of their focus on a lower housing delivery than required by the Housing Delivery Test. This view is not disputed by the Appellant. Accordingly, the tilted balance of paragraph 11 d) and footnote 7 of the National Planning Policy Framework (2019) (the Framework) is engaged where permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
9. The proposed dwellings would all be afforded areas of private garden space to the rear which range in depth from around 6 metres to approximately 4.5 metres as a minimum. Whilst the properties lining either side of Station Road, in proximity to the appeal site typically have long rear gardens, I have had regard to the garden sizes and depths of the adjacent Maynard Close and Warwick Close, which have in many cases similar sized gardens. As such, I find that the proposed development would be sufficiently comparable to these nearby estates and would therefore not result in the overdevelopment of the site, nor be unacceptably out of character with the surroundings.
10. The proposal would be likely to give rise to an intensification of vehicle movements along the existing sports ground access which is in public use. The proposed parking would be located to the rear of the properties and would provide 1 parking space for each property and two visitor spaces, totalling 14 spaces within the site. The proposed development is reasonably modest and as such, the proposed parking provision would be adequate to meet the needs of the future occupiers of the development without compromising highway safety. It has been demonstrated that visibility at the access point would be acceptable and would result in safe and suitable access to and from the site. I have also had regard to the comments from the local highway authority advising that the

layout would encourage on-site parking rather than on the nearby streets. Consequently, I find that it has been suitably demonstrated that the proposed parking and access would be acceptable in this instance.

11. I note that Bagworth has an infrequent bus service however a local convenience store has opened in proximity to the appeal site which would provide a degree of local services within walking distance. I also note that the site is allocated for housing therefore some degree of reliance on private vehicles appears to have been accepted. I have had regard to the level of accommodation proposed and the affordable nature of the development and I find that although the location of the site would result in some reliance on the private car this would not be excessive or result in unacceptably high volumes of traffic.
12. The Council have raised the matter of the design of the proposed development in the reason for refusal and submitted statement. Nevertheless, the Council advise that specific design matters are not disputed but rather that the proposed layout would result in a poorly designed development. I note the varied designs of properties in the surroundings, including more modern estate style properties and I find that the proposed dwellings would be largely consistent with the existing character and appearance of the neighbouring dwellings.
13. The proposed development would provide 100% affordable housing. In light of the Council's lack of 5-year housing land supply, I give the provision of 12 affordable homes towards the supply of new housing in the Borough great weight. Notwithstanding this, I find that the proposed development would not represent poor design and the proposed layout would be acceptable for the reasons detailed above. The proposed development would therefore not give rise to undue harm to the character and appearance of the area.
14. Accordingly, the development would comply with Policies DM1 and DM10 of the DPD. Collectively, these policies seek to grant permission where relevant policies are out of date unless the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, and ensure that development does not have a significant adverse effect on the privacy and amenity of nearby residents and complements the character of the surrounding area, amongst other things.

Other Matters

15. The Appellant has submitted a signed Section 106 Planning Obligation dated 22 October 2019 to secure the provision of the 10 proposed houses as shared ownership dwellings and the 2 flats as affordable rented dwellings. The proposal was accompanied by a viability assessment in relation to other financial obligations and I have been provided with copies of emails between the Appellant and Council which show that the Council agreed that the scheme could not support any additional contributions over and above gaining 100% on-site affordable housing, and that as a result they accept this and no further contributions are requested.
16. I have carefully considered the comments provided from Leicestershire County Council in relation to the education contributions towards primary school places. I note the capacity issues identified however I have also had regard to the submitted viability assessment and the independent assessment of this

carried out on behalf of the Council. Based on the evidence before me and the Council's conclusions on this matter, I find it has been adequately demonstrated that the development would not be in a position to make the required education contribution. I have had regard to the examples of appeal decisions provided by the County Council, however I have limited details of the background of these and as such I am unable to conclude that these are sufficiently comparable to the proposal before me. I therefore give these limited weight. Accordingly, I find that the submitted legal agreement is acceptable in securing the affordable housing provision of the proposed development.

17. Local objections have been received concerning, in addition to the above matters, existing highway safety issues including cars speeding along Station Road, access for emergency vehicles and refuse lorries and the level of affordable homes already provided. In terms of the matters relating to speeding cars, I have been provided with little evidence of this. In addition, I noted that visibility at the roundabout appeared to be good. Based on the information before me including the swept path analysis, I do not find that it is likely that there would be issues with access for emergency or refuse vehicles in terms of the existing road or the proposed site. The submitted plans indicate a dedicated refuse collection point which I consider to be suitable in this instance. I have limited information relating to the numbers of existing affordable homes in Bagworth, nevertheless the development plan requires the provision of affordable housing on certain developments therefore this would not warrant the dismissal of this appeal. I note also that the Council and relevant statutory consultees do not raise significant concerns in relation to these matters.

Conditions

18. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty. The Council have requested a number of conditions which I have considered against the advice within the Planning Practice Guidance and amended or omitted where necessary.
19. Conditions for unsuspected contamination and surface water drainage are necessary in the interests of ensuring that the site is suitable for its end use. Condition for landscaping is necessary in the interests of the visual character of the development and the surroundings. I have imposed a condition restricting construction hours to protect the living conditions of neighbouring occupiers. A condition for the provision of visibility splays is necessary in the interests of highway safety.
20. Conditions to remove permitted development (PD) rights should only be imposed in exceptional circumstances. The Council have identified that due to the garden sizes the construction of extensions to the dwelling would severely compromise the level of private outdoor space for future occupiers and I consider this to be sufficient justification for the removal of PD rights under Classes A and E of Part 1 Schedule 2 of the GPDO. The Council have also requested the removal of PD rights under Classes B and C however I have not been provided with sufficient exceptional circumstances for this and as such I have not included these classes. I have not imposed a condition relating to the

external materials to be used in the development as this is sufficiently secured by the approved plans condition.

21. Conditions 5, 6 and 7 are required to be pre-commencement conditions as it is fundamental to have these details agreed prior to any works commencing on the site. The Appellant has indicated their agreement to the suggested conditions.

Conclusion

22. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed.

R Norman

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 101 P6; 102 P4; 103 P3; 111 P11; 112 P8; 113 P11; 114 P11; P001 Revision 0; P003 Revision C; P004 Revision B; P005 Revision B; P006 Revision C; P007 Revision A; P008 Revision A; P009 Revision A; P010 and P012 Revision G.
- 3) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to, and approved in writing by, the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 4) Site preparation and construction works shall be limited to the following hours:
Monday – Friday 0730 – 1800;
Saturday 0800 – 1300;
No work shall be undertaken on Sundays or Bank or Public Holidays.
- 5) No development approved by this permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority. The submitted scheme shall include written confirmation from Severn Trent Water that a surface water connection to their public system has been approved, including the point of connection location and confirmed maximum discharge rate.
- 6) No development approved by this permission shall take place until details in relation to both the management of surface water on the site during the construction period and the long term maintenance of the sustainable surface water drainage system within the development have been submitted to, and approved in writing, by the local planning authority.
- 7) No development approved by this planning permission shall take place until infiltration testing has been carried out to confirm, or otherwise, the suitability of the site for the use of infiltration as a drainage element, and the flood risk assessment (FRA) has been updated accordingly to reflect this in the drainage strategy.
- 8) Prior to the first occupation of any dwelling hereby permitted, both hard and soft landscaping, including the refuse collection point, shall be provided in accordance with the approved plans. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

- 9) No dwelling hereby permitted shall be occupied until such time as the access, visibility splay and parking arrangements shown on the approved plans have been implemented in full. These shall thereafter be retained in perpetuity.
- 10) Notwithstanding the provisions of Classes A and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) the buildings hereby approved shall not be extended or altered without the grant of planning permission for such development by the local planning authority.