



Appeal Decision

Site visit made on 11 February 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2020

Appeal Ref: APP/F2415/W/19/3242313

Paddock Adjacent to 9 Broad Lane, Husbands Bosworth, Lutterworth, Leicestershire LE17 6FD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Ian Morris against the decision of Harborough District Council.
 - The application Ref 19/00504/REM, dated 28 March 2019, sought approval of details pursuant to condition Nos 3, 5 and 7 of planning permission Ref: 17/01400/OUT, granted on 20 October 2017.
 - The application was refused by notice dated 31 May 2019.
 - The development proposed is erection of three detached houses.
 - The details for which approval is sought are: Access, appearance, landscaping, layout and scale.
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Procedural Matters

1. The Council refers in its submissions to indicative layout plans associated with the outline planning permission Council Ref 17/01400/OUT. The plans are reproduced in the Council's officer report. Condition 9 to the outline approval states that the development permitted shall be in accordance with the approved Location Plan. The decision notice contains an advisory note, note 6, advising that the proposed layout should follow the linear formation shown on indicative layout plans dated 19th October 2017. Notwithstanding, no evidence has been presented to demonstrate that agreement had been reached to amend the Location Plan in line with the indicative layout plans. Although the indicative layout plans seek to influence the form of development, such an advisory note cannot be binding. I have therefore considered the appeal on the basis of the submitted Location Plan, which corresponds to the Location Plan that accompanied the outline application.

Decision

2. The appeal is allowed, and approval is given for the reserved matters of access, appearance, landscaping, layout and scale, in accordance with the terms of the application Ref 19/00504/REM, dated 28 March 2019, at the paddock adjacent to 9 Broad Lane, Husbands Bosworth, Lutterworth, Leicestershire LE17 6FD, subject to the following conditions:
 - i) The development hereby approved shall be carried out in complete accordance with the following approved plans: Site Plan, MR VS1, 1827-10F, 1827-11A, 1827-12A, 1827-13A.

- ii) No trees or hedgerows shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans. If any retained tree or hedgerow is removed, uprooted, destroyed or dies within 5 years of completion of the development, it shall be replaced in the next planting season with others of similar species and size, in the same location.

Main Issues

3. The main issues are:

- the effect of the proposed development on the character and appearance of the area, including the green infrastructure, and setting of the Husbands Bosworth Conservation Area, with particular regard to layout, scale, mass and the Public Right Of Way (PROW) north-west of the site.

Reasons

Effect on character and appearance of the area and the setting of the CA

4. The appeal site is located to the west of Broad Lane, just beyond the north-eastern boundary of the built-up area of the village of Husbands Bosworth. The south-eastern end of the site abuts the boundary of the Husbands Bosworth Conservation Area (CA). Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In addition, paragraph 190 of the Framework advises that the particular significance of any heritage asset that may be affected by a proposal, including development affecting the setting of a heritage asset, should be identified and assessed.
5. The village is located at the crossing of the A5139 and A4303, which has strongly influenced its development. Most of the village lies within the boundary of the CA. The basic form of the village is a strong line along the High Street (A4304) with 2 key lanes leading south, the A5199 Walford Road and Butt Lane, and 2 main lanes heading north, Bell Lane and Berridges Lane, which join to become the A5199 heading north. Most of the other roads within the built-up area of the village extend off one of these key roads. The road pattern has shaped the broad blocks of development. There is no obvious core to the original village and its older buildings are dispersed around the village, among more recent development. Broad Lane, which is a dead-end road, extends in a north-easterly direction from the north-eastern built-up boundary of the village.
6. The key features that give the village its character are the contrast between the long, wide High Street and the narrower lanes and junctions on either side of it, the abrupt southern edge on ridgetops overlooking the meadowlands and the enclosed parkland of Bosworth Hall at the eastern edge. The buildings in the village are diverse, intermingled, of various sizes and date from various periods. Red brick and slate are the predominant materials used in the older buildings, though some properties have lighter coloured headers, and there are examples of the timber-frame tradition, Swithland slates and thatch. The street pattern and variety of buildings provides some significant vistas and open spaces, the closest of these to the appeal site being where Honeypot Lane meets Mowsley Road. The aspects described above substantially contribute to

the significance of the CA. The fields to the north-east/north of the CA boundary along Broad Lane contribute significantly to the setting of the area of the CA within proximity of the appeal site.

7. Although many of the properties in the village front a highway, there are numerous examples of properties that do not, several of which are oriented at right-angles to the roads. I acknowledge that the properties on the north-western side of Broad Lane at its southern end consist of a short terrace of modest sized dwellings. However, a good-sized detached dwelling has recently been constructed north-east of the terrace, close to the proposed site access. There is also a relatively large property located on the south-eastern side of Broad Lane, at its southern end, on the corner of Broad Lane and Honeypot Lane. Additionally, there are several other examples of relatively large properties within the village.
8. The land level of Broad Lane slopes down from its southern end. Much of the appeal site also slopes away, westerly, from Broad Lane into a dip between the fields that lie between Broad Lane and the PROW north-west of the site. With the land levels as they are and the presence of trees and hedges along the eastern boundary of the site, adjacent to Broad Lane, views of the proposed dwellings would be very restricted as one travels south along Broad Lane from its northern end. In addition, the presence of the recently constructed dwelling close to the proposed access of the site would block views of the proposed development from the area around the junction of Honeypot Lane, Mowsley Road and Broad Lane.
9. I also note that planning permission has been granted for residential development on the land adjacent to the south-western boundary of the appeal site, to the rear of Nos 1-9 Broad Lane. Along with the outline planning permission granted on the appeal site, the Council has accepted development of sections of the fields located at the eastern boundary of the village, which are within the immediate setting of the CA.
10. Within the context of the pattern of development within the village and other aspects as described above, I conclude that the layout of the proposed development and the size, scale and mass, would not be out of keeping with, or harmful to, the character or appearance of the area or the setting of the CA. As such, the proposal would accord with policies GD5, GD8 and HC1 of the Harborough Local Plan 2011 to 2031 (2019) (HLP) which require, among other things, development to achieve a high standard of design, respect local character, be sensitive to landscape setting and protect, conserve or enhance heritage assets. The proposal would also accord with policies within the Framework that seek to protect local character and heritage assets.

Effect on green infrastructure

11. As noted above, a PROW is located north-west of the site. It extends from the eastern edge of the built-up area of the village in a north-easterly direction to the northern end of Broad Lane. I acknowledge that the proposed development would be visible from this PROW. However, as noted above, the principle of developing the site has been established, in accordance with the location plan, and residential development has been approved by the Council on the land adjacent to the south-western boundary of the appeal site. Within the context outlined above, I conclude that the proposed development would have an acceptable relationship with, and effect on, the character and appearance of

the local green infrastructure, with particular regard to the PROW. In this regard, the proposal would also accord with policies GD5, GD8 and HC1 of the HLP and policies within the Framework that seek to protect local character.

Other Matters

12. Other issues raised during the planning application were highway safety, a Flood Risk Assessment (FRA) not having been submitted, asbestos on the site, impact on water drainage and impact on ecology/biodiversity.
13. I note that the Local Highway Authority considered the proposal acceptable in respect of highway safety. I consider the small-scale nature of the development would not have any significant effect on the surrounding highway network. Given the nature of the road, I consider the access would be suitable and appropriate turning and parking facilities would be provided within the site. As such I consider the proposal would not raise any highway safety concerns.
14. The site is located in flood zone category 1, the lowest category of risk, and the scale of development does not require an FRA to be undertaken. I am satisfied that the scale of the proposal in its given context would not present any flood risk.
15. The Council's Environmental Health Team did not raise any environmental health concerns. Development is required to proceed in accordance with relevant health and safety legislation and procedures in respect of asbestos, eg the Control of Asbestos Regulations 2012. As such, I am satisfied that the development would not present any public health risks.
16. The Local Water Authority did not raise any concerns regarding drainage. Appropriate surface water run-off and drainage facilities would need to be provided on site, in accordance with relevant building regulations and Local Water Authority requirements. Therefore, appropriate drainage would be provided.
17. The County Ecologist did not raise any concerns regarding ecology or biodiversity. The Council appraised the impact of the proposed development on ecology/biodiversity at the outline planning application stage, attaching a condition to the outline planning permission it saw fit to deal with such matters.

Conditions

18. I have considered the conditions suggested by the Council. I note that conditions which relate to anything other than the reserved matters could only have been imposed when outline planning permission was granted. Consequently, I have not attached a condition requiring a Written Scheme of Investigation related to archaeological investigations. I also note that conditions attached to an outline planning permission should not be repeated on the associated reserved matters approval. Therefore, I have not attached conditions related to timescale, tree protection or external materials. I have attached a condition specifying the plans to which the reserved matters approval relates, as these are more extensive than just the location plan specified on the outline permission, for the avoidance of doubt. Any undischarged conditions relating to the outline permission remain extant and it is not necessary or appropriate to duplicate such conditions here. As such, I have not attached a condition requiring an ecological survey. Paragraph 53 of

the Framework states that planning conditions should not be used to restrict national Permitted Development (PD) rights unless there is clear justification to do so. The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. I consider that no clear justification has been provided for the suggested removal of PD rights Classes A-E of Part 1 of the Town and Country Planning (General Permitted Development) Order, and therefore I have not attached such a condition. I have attached a condition requiring the retention of trees and hedges to protect the character and appearance of the area.

Conclusion

19. For the reasons outlined above, having considered all the evidence, I conclude that the appeal is allowed.

J Williamson

INSPECTOR