



Appeal Decision

Site visit made on 20 January 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2020

Appeal Ref: APP/U3935/W/19/3240758

Land at Marsh Farm, The Marsh, Wanborough, Swindon SN4 0AR

- 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 Fairwater Homes Ltd against the decision of Swindon Borough Council.
 - The application Ref S/19/0477/JABU, dated 15 March 2019, was refused by notice dated 11 July 2019.
 - The development proposed is the erection of 8no. dwellings with associated car parking & landscaping. The application proposal incorporates significant flood alleviation measures that are specifically intended to address the local flood-risk situation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would provide a suitable location for housing, having regard to its location;
 - The effect of the proposed development on the setting of the Grade II listed buildings known as Moat Cottage and Lake Cottage;
 - Whether the scheme makes an appropriate provision for affordable housing; and
 - Whether the proposal would have an adverse effect upon protected species.

Reasons

Suitability of the location

3. The appeal site lies in a rural location. It is located on the northern side of The Marsh and comprises a large, open grass field, bounded to the south and east by mature hedgerows. Roughly to the northwest are Moat Cottage and Lake Cottage, both of which are Grade II Listed Buildings. Existing access to the site is via a track, which runs through the site bisecting it while also providing access to Moat Cottage and Lake Cottage. Whilst there are a number of residential properties near to the appeal site, the surrounding land use is predominately open countryside.
4. Policy SD2 (the Sustainable Development Strategy) of the Swindon Borough Local Plan 2026 (the Local Plan) sets out the strategy for new housing

development in Swindon, identifying that development will be brought forward through opportunities within the urban area and the development of allocated strategic sites. No evidence has been submitted to show that the appeal site is a brownfield site. Neither is it allocated for development. The site lies outside of the Wanborough rural settlement boundary. On this basis, the appeal site therefore lies within the Countryside.

5. Part c of Policy SD2 restricts development to those locations where local needs have been identified and allocated through a Neighbourhood Plan; where it supports the expansion of tourist or visitor facilities; or where it accords with other policies in the Local Plan permitting specific development in the countryside.
6. The site is not allocated or identified for development in a Neighbourhood Plan and no evidence has been put to me to demonstrate that it would support the expansion of tourist or visitor facilities. Neither has it been submitted that the proposal constitutes a form of development that would be required specifically within the countryside. As a result, the proposal fails to satisfy the requirements of Policy SD2 of the Local Plan.
7. For the above reasons, I therefore conclude that the proposed development would not provide a suitable location for housing and, in this respect, is contrary to Policies SD1 (sustainable development principles), SD2, SD3 (managing development) and NC3 (New Eastern Villages) of the Local Plan and the National Planning Policy Framework (the Framework) which amongst other things, seek to protect the character and appearance of the countryside and ensure that the majority of new development is located within defined settlement boundaries.

Setting of Listed Buildings

8. The listed buildings of Moat Cottage and Lake Cottage are situated roughly to the northwest of the appeal site. Both properties are detached, thatched buildings, sitting within their own garden areas. Their special interest and significance is therefore informed by their architectural interest as buildings dating back several centuries with the survival of key features.
9. The listed buildings are located on the very edge of a cluster of development that is focused around this part of The Marsh. There is open countryside to all sides of the listed buildings except to the south-west, where new residential development has recently replaced a former agricultural operation. The listed buildings are good examples of historical, vernacular rural dwellings, such that their countryside surroundings contribute to their legibility and thereby to their significance.
10. The proposed housing development would almost entirely remove the existing open aspect and introduce development into the open countryside. I note that careful attention has been paid to the overall design of the dwellings, the proposed materials to be used and the provision of additional landscaping. Areas of the appeal site would also be left undeveloped. However, the overall scale, bulk and massing of the new dwellings would overly dominate the views of the open area and significantly change the experience and nature of these views. Therefore, as a result of the loss of the open views and the relationship of the proposed buildings to Lake Cottage and Moat Cottage, the proposed

development would undermine the legibility of the buildings as historical, vernacular rural dwellings thereby diminishing their significance.

11. Accordingly, I conclude that the proposal would cause less than substantial harm to the significance of the designated heritage assets. I have had regards to my duty under Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') which requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications. Paragraph 134 of the Framework requires such harm to be weighed against the public benefits of the proposal.
12. The proposed development would provide social benefits in terms of eight new houses where it is accepted that it is not possible to demonstrate a five year supply of housing land. The proposal would also deliver a proportion of affordable housing. It would also help to support local services and facilities and provide investment in terms of its construction. However, given the modest number of houses proposed, these public benefits only carry limited weight overall. They would not be sufficient to outweigh the harm the development would cause to the significance of Lake Cottage and Moat Cottage as designated heritage assets. Given the national importance to protecting heritage assets, relative to the modest benefits that would accrue from the appeal development, all of the considerations that weigh in favour of the proposal do not clearly outweigh the identified harm to the heritage assets, to justify the development. Furthermore, whilst it is acknowledged that there is a lack of five year supply of housing land, housing land supply issues are likely to be temporary, while the harm to the Listed Buildings would be permanent.
13. I therefore conclude that the proposed development would not preserve the special interest or setting of Lake Cottage and Moat Cottage and would result in harm to the significance of these listed buildings. Therefore, in this respect, the proposal fails to accord with Policies DE1, EN5 and EN10 of the Local Plan and the Framework. Amongst other things, these policies seek to conserve the Borough's local character and historic environment and protect the setting of listed buildings. The proposed development would also conflict with the aims of the Framework as it would fail to sustain the significance of the listed building where the public benefits would not outweigh the harm. Finally, it would not preserve the setting of the listed building as required by Section 66(1) of the LBCA Act, but instead would be harmful.

Provision of affordable housing

14. Annex 2 of the Framework provides a definition of affordable homes. Amongst other tenures, it includes discounted market homes as falling within the definition of affordable housing. Whilst there is agreement between the parties over the level of provision, there is however disagreement over the exact level of open market discount. The appellant originally suggested a 20% discount, with the Council suggesting 30% would be more appropriate. I have received a Unilateral Undertaking provided by the appellant to ensure the delivery of this aspect of the proposal, which now proposes a 30% reduction, in line with Council requirements.
15. Three of the eight homes would be discounted market homes. Policy HA2 of the Local Plan, requires that on all developments of 15 homes or more, or on sites larger than 0.5 hectares, a target of 30% affordable housing should be

provided. The provision within the scheme would be 37.5%, which would comply with development plan policy. Accordingly, the scheme would make appropriate provision for affordable housing.

Effect upon protected species

16. Policy EN4 (Biodiversity and Geodiversity) of the SBLP identifies that new development should avoid direct and indirect negative impacts on biodiversity and that all development shall protect and enhance biodiversity and provide net local biodiversity gain. Where this cannot be delivered, mitigation and compensation measures would need to be agreed.
17. The appeal application was supported by an Ecological Appraisal, which was reviewed by the Council ecologist and found to be deficient with regards to its survey results. As a result, additional surveys were required, before the scheme could be assessed against Policy EN4. For whatever reason, this additional information was not provided prior to the determination of the appeal application.
18. Following the submission of the appeal, further information in the form of an updated Ecological Appraisal has been supplied. This additional work concluded that, subject to the implementation of the recommended measures contained within the report, no significant reduction in the ecological interest of the site or its surrounds would arise as a result of the proposed development. I am satisfied that the additional information does now adequately deal with ecology matters.
19. I note that the Council have expressed concerns that this information was not before them at the time the appeal application was determined. Whilst I have some understanding of their position, this additional survey was ultimately requested by the Council. As such I consider it to be an expansion of the information already submitted as opposed to new information. Furthermore, through the use of a suitably worded condition, the local planning authority would be able to retain control over the approval and delivery of the recommended measures.
20. I therefore conclude that the proposed development would not have an adverse effect upon protected species and, in this regard, would accord with Policy SD1 and EN4 (Biodiversity and Geodiversity) of the Local Plan, and the relevant section of the Framework, which seeks to avoid negative effects upon biodiversity.

Planning balance

21. It is accepted by both parties that it is not possible to demonstrate a five year housing land supply at present. Paragraph 11 of the NPPF applies, which states that relevant policies for the supply of housing should not be considered up to date where a five year housing land supply cannot be demonstrated.
22. Paragraph 11 of the Framework states that where relevant policies are out of date, permission should be granted, unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 of the Framework specifies that designated heritage assets are included within such protected areas or assets. As I have already found that the Framework policy relating to heritage assets in paragraph 134 indicates that development should

be restricted, such that, notwithstanding the current absence of a Framework compliant supply of housing land, the so-called tilted balance does not apply in this case.

23. In many respects the proposal would contribute positively to sustainable development objectives as set out in the Framework, particularly in respect to the benefits associated with housing, including affordable housing. Nonetheless, these benefits would be limited given the reasonably modest scale of the development proposed. Moreover, in view of the harm that would be caused to the significance of Lake Cottage and Moat Cottage and the importance given to the conservation of such heritage assets, the benefits of the proposed development would fall somewhat short of outweighing the harm I have outlined above. Consequently, the proposal does not represent sustainable development and permission should be refused.

Conclusion

24. For all of the reasons given above, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR