
Appeal Decision

Site visit made on 18 February 2020

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 26 May 2020

Appeal Ref: APP/W1850/W/19/3242211

Crooks Hill Farm, Acton Beauchamp, Worcester WR6 5AB

- 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 Barry Kearley against the decision of Herefordshire Council.
 - The application Ref 192150, dated 17 June 2019, was refused by notice dated 12 August 2019.
 - The development proposed was originally described as "is 2no 1 ½ storey dwellings".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council altered the description of the development on the decision notice to read "Proposed 2no. detached dwellings". This is the description of the development used by the appellant on the appeal form. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the proposal would be a suitable location for housing, having regard to local and national planning policies;
 - Whether the proposal makes adequate provision for wastewater; and
 - The effect of the proposal on the Grade II listed building known as Crooks Hill Farmhouse.

Reasons

Location of development

4. Policy RA2 of the Herefordshire Local Plan Core Strategy 2011 – 2031 (CS) seeks amongst other things to maintain and strengthen local sustainable communities across Herefordshire. The policy supports housing development in or adjacent to existing defined settlements. The appeal site is located within the parish of Acton Beauchamp, which is not identified as a rural settlement within Policy RA2 where future housing growth is to be located. As such future residential development outside of defined settlements is therefore within the countryside. Paragraph 79 of the National Planning Policy Framework (the Framework) states that isolated dwellings in the countryside should be avoided.

However, the proposal is located in close proximity to an existing farmhouse and it is not contested by the parties that the proposal is not isolated. Policy RA3 of the CS requires that residential development in the countryside must meet one of 7 specific criteria. From the evidence provided, there is no cogent evidence which indicates the development meets any of these specific criteria. Therefore, the proposal fails to accord with CS policies RA2 and RA3.

5. The appeal site is located approximately 3.5 miles from the nearest settlement of Bromyard which as a defined market town would provide the majority of the full range of day to day services and facilities, including shops and schools. Given the distance to this nearest settlement, it is unlikely that residents would choose to walk. Whilst cycling may be an option, it was apparent from my site visit that the roads around the appeal site are narrow and rural in nature, which are not lit. This would likely be a barrier for future residents wishing to cycle to this location, especially at night.
6. I recognise that Paragraph 103 of the Framework states that in rural areas, options for sustainable transport solutions may be less available than in urban areas. However, based on the evidence before me and my observations during my site visit, future occupiers would likely be heavily reliant on private cars to access services and facilities.
7. Consequently, I find that the proposal would not be a suitable location for housing, having regard to local and national policies. It conflicts with Policies RA2, RA3, SS1, SS4 and SS7 of the CS. Collectively these policies seek, amongst other things, that development is located in an appropriate sustainable location and seeks to reduce the need to travel by private car. The Council have made reference to the Framework. Whilst I have not been directed to the specific area of conflict with the Framework, the proposal would fail with section 9 which aims to promote sustainable transport.
8. The Council have referred to policy MT1 in its decision notice. This policy sets out criteria pertaining to traffic management, highway safety and promoting active travel which should be incorporated into development proposals. I do not find this directly relevant to this main issue, as it does not relate to the principle of where housing proposals should be located.

Wastewater

9. Policy SD4 of the CS states that where evidence has been provided that connection to the wastewater infrastructure network is not practical, alternative foul drainage options should be considered, which includes the provision of or connection to a package sewage treatment works. This should discharge to a watercourse or soakaway. Where a non-mains alternative is to be provided, additional information should be provided to demonstrate there will be no likely significant effect on the water quality of designated and European sites.
10. The appeal proposal would include the provision of a package sewerage treatment plant for each dwelling, and the specifications of these plants have been submitted as new evidence for this appeal. Whilst the appellant has included the details of the operational manuals and installations of these treatment plants, no details have been provided about how the resultant wastewater would be discharged. Whilst I do not dispute that the proposed treatment works in principle could be acceptable it is still necessary to demonstrate that water quality is adequately protected through the provision of

details of how the treatment works would discharge needs to be provided. The Appellant contends that additional details on the drainage proposals could be secured by a planning condition. I do not find this to be the case. The location and operation of the drainage measures could result in additional measures being required to protect water quality locally, which would have an effect on the acceptability or not of the principle of the development.

11. Consequently, from the evidence provided I cannot be certain that the proposal makes adequate provision for wastewater. Therefore, there is conflict with policies SD3, SD4 and SS6 of the CS. Together these policies seek, amongst other things, that new development provides adequate provision for wastewater and does not impact water quality.

Heritage

12. The appeal site includes the Grade II listed building known as Crooks Hill Farmhouse. This is a 17th Century timber frame cottage, which includes a tiled roof with gable end. The appeal site includes two existing agricultural buildings which whilst in relatively close proximity to this listed building sit outside of its curtilage. The appeal proposal would see the removal of these agricultural buildings to be replaced with two new residential dwellings. The Council raised concerns that no assessment of the impact of the proposal of the heritage asset has been completed. As part of the appeal, the appellant has submitted a heritage statement.
13. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (The Act) 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.
14. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 states 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. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Substantial harm to or loss of a Grade II listed building should be exceptional. The setting of a heritage asset is not a fixed concept; it is concerned with the way the heritage asset is experienced.
15. The significance of the listed building is derived from its architectural and historical interest, which includes its agrarian character. The rural setting of the appeal site is a factor which contributes towards its significance. The existing agricultural buildings are not within the curtilage of the listed building, but their close proximity influences its setting. Whilst the appeal proposal would introduce new dwellings on the appeal site, the proposed dwellings would have a rural cottage feel, and would be finished in materials which are complementary to the rural nature of the site. Furthermore, the proposed soft landscaping would provide a useful visual buffer between the appeal proposals and the listed building. Given the complementary design and relative separation from the listed building, I find that the overall effect of the proposal on the setting of the listed building would be neutral.

16. I conclude that the proposal would not adversely affect but would preserve the setting of the listed building. The proposal therefore complies with Policy LD4 of the CS which seeks, amongst other things, that development proposals affecting heritage assets should protect and conserve their settings. The proposal would also comply with section 16 of the Framework and its aims to conserve and enhance the historic environment.

Other Matters

17. The appellant contends that the appeal site has previously had planning consent for new residential dwellings, by virtue of prior approval consents¹ and full planning application². In view of this, the appellant suggests that the principle of housing development in this location has been accepted and this represents a material consideration which weighs in support of the planning application. It is clear from the evidence provided that these permissions have lapsed. As such there is no fallback position should planning consent not be granted. Therefore, this is not a material consideration in my assessment of the appeal proposals. I understand that another prior approval application on the appeal site has also been refused by the Council³. Whilst the appellant has indicated that this decision will be appealed; I can only determine this appeal based on current situation. As such there are currently no extant planning consents which would represent a fallback position.
18. The appellant has drawn my attention to an appeal site located in Linton, Ross-on-Wye⁴ where the Inspector gave weight to the fallback position of a prior approval. However, I do not consider the cases are directly comparable. It is clear that in the Linton appeal the site benefited from an extant prior approval for the conversion to a residential dwelling. This formed a material consideration in the Inspectors reasoning. This appeal site does not benefit from such a fallback position, and therefore is not directly comparable. In any event, all appeals and applications must be determined on their own planning merits, which is what I have done.
19. Part of the appeal site is included within the catchment area of the River Lugg sub-catchment which forms part of the River Wye Special Area of Conservation (SAC). This is a habitat recognised under the Conservation of Habitats and Species Regulations 2017 as being of international importance for the aquatic flora and fauna it supports. However, there is no need for me to consider further the implications of the development on the SAC because the appeal scheme is unacceptable for other reasons.

Planning Balance and Conclusion

20. The Council acknowledges that it is unable to identify a five year supply of housing. Paragraph 11 and Footnote 7 of the Framework 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. Where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

¹ LPA references: 153668/PA4 approval dated 28 January 2016 & 161382/PA4 approval dated 17 June 2016

² LPA reference: 181356/F dated 11 October 2018

³ LPA reference: P194190/PA4 decision dated 10 February 2020

⁴ APP/W1850/W/17/3171828 decision dated 19 July 2017

21. In the context of the development plan, I have found that the proposed development would be contrary to policies SS1, SS4, SS6, SS7, SD3, SD4, , RA2, RA3 of the CS. For this appeal in the absence of a five year supply of housing the policies most relevant to the determination of this appeal should be considered out of date.
22. The appellants contend that the proposal would deliver positive benefits in the form of additional and high quality housing which would contribute towards the Council's 5 year housing supply. However, the provision of two additional dwellings would only provide a minor increase in housing stock. Minor economic benefits would be achieved through the construction of the dwellings, albeit this would be a temporary benefit. Furthermore, occupiers of the new housing would help support the facilities within Bromyard. However, the proposal would result in the likelihood of these occupiers being dependent on the use of the private car for access to services and facilities. Furthermore, the proposals fails to make adequate provision for wastewater. As such it would be contrary to the aims of the Framework to minimise the need to travel and support the transition to a low carbon economy, and to conserve and enhance the natural environment.
23. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development.
24. For the above reasons I conclude that the appeal should be dismissed.

S Shapland

INSPECTOR