



Appeal Decision

Site visit made on 9 June 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2020

Appeal Ref: APP/W1850/W/19/3242814

Land adjoining The Field, Almeley Road, Eardisley HR3 6NB

- 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 R S Preece and Son against the decision of Herefordshire Council.
 - The application Ref 191190, dated 27 March 2019, was refused by notice dated 24 September 2019.
 - The development proposed is residential development for 5 detached houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: a) Whether the site is in a suitable location for housing having regard to local policies; b) The effect of the proposed development on the character and appearance of the area; c) The effect of the proposal on flood risk; d) The effect of the proposal on highway safety; and, e) If any harm arises whether or not this is outweighed by any other considerations.

Reasons

Suitability of location for housing

3. The appeal site extends to about 0.35 hectares and forms part of a larger agricultural field fronting Almeley Road and adjoining the eastern built extent of Eardisley, and to the west of an embankment along a former railway track. A Public Right of Way (EE13) runs through the site along a north-south axis.
4. In terms of new housing provision across the County, Policy RA1 of the Herefordshire Local Plan-Core Strategy (CS) identifies that Herefordshire Rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The dwellings will be broadly distributed across the seven Housing Market Areas (HMAs). Eardisley lies within the Kington HMA and is identified as one of the settlements which will be the main focus of proportionate housing development.
5. Policy RA2 of the (CS) guides development towards rural settlements. It states: 'The minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements set out in Figures 4.14 and 4.15. Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets'.

6. The appeal site falls within the area covered by the Eardisley Group Neighbourhood Area which adopted its Neighbourhood Plan (NP) in June 2016. Policy H1 of the NP confirms that the requirement for 12% growth will be achieved through the delivery of 63 dwellings across the group parish – with the majority of these being directed to Eardisley as the largest settlement. At Policy H2 of the NP, a settlement boundary is defined for the village and the Policy states that new housing will be permitted within this boundary. Outside of the boundary development will be restricted to exceptional development in accordance with the policies of the CS. The appeal site is adjacent to but outside settlement boundary.
7. Although Policy RA2 of the CS supports development within or adjacent to the main built up area of the settlement, it is a non-strategic policy which refers to specific areas and pre-dates Policy H2 of the NP. Therefore, having regard to Paragraph 30 of the National Planning Policy Framework ('the Framework') the latter takes precedence. Irrespective of this, Policy RA2 of the CS also requires that schemes are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting.
8. Drawing together the matters outlined above, the site is located outside the settlement boundary of Eardisley and for planning policy purposes is within the countryside. Consequently, Policy RA3 of the CS is engaged, which limits new housing outside settlements for certain types. The proposal does not fall within any of the specified types.
9. For the above reasons, the appeal site is in an unsuitable location for housing with regard to local policies and would be in conflict with both Policy H2 of the NP and Policy RA3 of the CS.

Character and appearance

10. Development along Almeley Road, in particular on its northern side, up to the appeal site, is mainly in the form of ribbon development, facing the highway. As such, this gives this part of the built extent of the settlement a distinct pattern and character. Furthermore, physically and visually the appeal site forms part of the open countryside beyond the built extent of Eardisley. Consequently, and due to its open and verdant nature it makes a positive contribution to the rural and scenic quality of the area. This is particularly evident from along EE13 and to a lesser extent from Almeley Road.
11. In contrast, the new dwellings would be arranged in depth from the adjacent highway along a new cul-de-sac with two units sited side by side along the northern boundary of the development site. This would extend considerably beyond the garden areas associated with neighbouring dwellings. Moreover, the extent of development proposed in the form of five two-storey dwellings, with associated parking, garden areas and an access road would introduce considerable encroachment and urbanisation of an undeveloped site in the countryside. Cumulatively, such an arrangement would appear discordant with the predominant pattern of development and would also significantly detract from the rural and scenic quality of the area.
12. Despite the site having no special designation and physically being able to accommodate 5 houses, for the above reasons the proposed development would have a significant adverse effect on the character and appearance of the area. I therefore find conflict with Policies LD1 and SD1 of the CS, and Policies

SD1, H7 and E2 of the NP which amongst other things seek to secure high quality developments where landscape and townscape positively influence development and that developments conserve and enhance the beauty of the landscape.

Flood risk

13. The Environment Agency's (EAs) Flood Map for Planning shows that the site is located within the low risk Flood Zone 1. Nevertheless, based on the EAs Risk of Flooding from Surface Water Map, part of the site, in particular adjacent to Almeley Road, is highlighted as having 'Medium' surface water flood risk, associated with 1:100-year rainfall events at a depth of less than 300mm. Most notably, the extent of this mapped flooding covers part of the location of the house proposed at Plot 1. Evidence from third parties also supports the occurrence of flooding at the appeal site and on nearby land.
14. To manage any flood risk from the proposed development, the appellants' most recent Flood Risk Assessment¹(FRA) recommends a surface water management plan. This seeks to manage runoff from impermeable surfaces proposed for the development via new conveyance channels through the site, then along a culvert through the embankment into an attenuation basin located on land within the appellants' ownership. Outflow from the attenuation basin would be controlled by a custom-designed Hydro-brake, at a runoff rate below 2l/s. Flows from the attenuation basin would then be directed into the southward flowing stream, which is a tributary of Folly Brook.
15. The FRA also indicates that to further mitigate against flood risk, the proposed dwelling on Plot 1 would be built with a finished floor level 450mm above the present ground level and that the proposed access road to the development would be raised to a similar level as Almeley Road.
16. Notwithstanding the above, the proposed surface water management plan would also be reliant on the existing drainage infrastructure. The extent of this is outlined on Figure 9 of the FRA. Having undertaken a recent inspection² the appellants' assert that the existing land drainage features are poorly maintained and also identify other additions that are diverting the flow-paths of ordinary watercourses. Adding that these factors are causing the flooding at the appeal site and nearby areas. While some suggestions are given, no mechanism has been put forward by the appellants to ensure that the problems highlighted with the existing drainage infrastructure are comprehensively addressed. Moreover, on the available information, I cannot be certain that the existing drainage infrastructure has sufficient capacity to convey surface water flows away from the appeal site, in particular the culvert under Almeley Road.
17. It is also unclear how any existing drainage features within the appeal site are to be incorporated into the proposed development scheme, nor has a mechanism been provided to secure the retention and maintenance of these.
18. Whilst the above matters would not appear to be unsurmountable, cumulatively they undermine my confidence in the efficacy and efficiency of the suggested surface water drainage plan. Therefore, I have strong concerns that the proposal does not adequately deal with flood risk. This would be in conflict with

¹ Flood Risk Assessment for Residential development on Land off Almeley Road, Eardisley, Herefordshire Report L0031, November 2019.

² Technical Note prepared by Hydro-Logic Services, dated 8 April 2020.

Policy SD3 of the CS and Policy E1 of the NP, which amongst other matters seek to ensure that where flooding is identified as an issue, new development should reduce flood risk and that any development that would result in increased flood risk to properties elsewhere will not be permitted.

Highway safety

19. The proposed access for the development site would be in the form of a priority junction with a 4.8m wide carriageway and a two-metre wide footway along one side, the alignment of these is to accommodate the route of EE13 through the site.
20. Based on the appellants' Transport Statement the off peak 85th percentile speed for westbound traffic on Almeley Road is 31.8mph and the corresponding eastbound speed is 32mph. On the basis of these average speeds and the recommended stopping sight distances³, the proposed visibility splays of 2m x 42m would be in accordance with the specifications for highway design, as set out in the Council's design document - Highway Specification for New Development, July 2006.
21. Although the visibility splay east from the proposed access would be partly obscured by existing vegetation, this is on land within the appellants' ownership. Therefore, the required visibility could be secured by a condition if the appeal were to succeed. Additionally, the appellants' trip generation analysis shows that the proposed development would have a negligible impact on the local highway network. Drawing on these factors, and despite the concerns raised by the Council's consultee Transport Manager, emerging motorists would have adequate visibility to see oncoming vehicles in sufficient time to make their manoeuvre safely without influencing the major road traffic speed.
22. It has been suggested that the existing road geometry near the site combined with the speed of traffic, frequently results in drivers going off road to avoid collision. However, I have limited substantive technical evidence to support this, and the Council's consultee Transport Manager has raised no specific issue in relation to this.
23. The proposed layout includes a turning head, which could facilitate refuse collection vehicles accessing the development, subject to the provision of a swept path analysis. This, along with the details of a pedestrian link from the development site to the existing footway along Almeley Road, could be addressed by conditions, if the appeal were to succeed.
24. For the above reasons, the proposal would not have an adverse effect on highway safety. Therefore, there would be no conflict with Policies MT1 and SS4 of the CS and Policy T2 of the NP which amongst other things, require that developments have a safe entrance and exit. Accordingly, I find no conflict with similar requirements as set out under Paragraph 108 b) of the Framework.

Other considerations

25. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 11d of the Framework states that in these circumstances where there are no relevant development plan policies, or the

³ As found in Table 10.1 of Manual for Streets 2.

policies which are most important for determining the application are out-of-date, granting permission unless ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

26. In addition, it is common ground between the main parties that the total housing numbers anticipated for Eardisley under Policy H4 of the NP are unlikely to come forward on the identified sites. Despite this, the Council argues that its monitoring figures confirm that at the Neighbourhood Area level completed developments and sites with extant planning permission within the group parish totalled 60 units as of April 2019, which falls only marginally short of meeting the minimum growth target of 63 dwellings required for the group parish across the plan period. Adding, that provision is made to address the outstanding requirement through sites allocated for development in the NDP, including approximately 15 dwellings at Millstream Gardens under Policy H4 of the NP. On this basis, there would appear to be no overriding need for housing at the Neighbourhood Area level.
27. Nevertheless, the County and local housing requirements are set as minima, whereas the Framework supports the governments objectives to significantly boost the supply of housing. The proposal would enable the delivery of additional dwellings of a mix compliant with the NP. To some extent this also supports the overall aims of Policy RA1 of the CS, which consistent with the Framework, acknowledges the role of housing to strengthen the rural economy. Nonetheless, given its modest scale of five dwellings, the proposal would only make a limited contribution towards the rural economy and the overall supply of housing. Accordingly, this and any associated benefits attract limited weight. The lack of highway safety harm is a neutral factor.
28. On the other hand, I have found that the site's development would result in development in the countryside contrary to the strategy for the location for new development as set out in the development plan. The proposal would also harm the character and appearance of the area and fails to adequately deal with flood risk. The Framework requires that new developments are sympathetic to local character, and seeks to enhance the natural and local environment, by recognising the intrinsic character and beauty of the countryside. The Framework also seeks to ensure that flood risk is not increased elsewhere, and the development is appropriately flood resistant and resilient. Accordingly, I attach significant weight to such harmful impacts which I have already identified.
29. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Mindful that the NP is over 2 years old, I see nothing in Paragraph 14 of the Framework that leads me to a different view.

Other Matters

30. The site falls within the catchment of the River Wye Special Area of Conservation (River Wye SAC). In this case, the Council has undertaken a Habitats Regulations Appropriate Assessment and concluded that the use of the mains sewer to manage foul water is sufficient to avoid any likely significant effects on local water quality and designated sites. There is also no objection from Natural England.

31. However, caselaw⁴ requires the decision maker, when considering the effect that a proposal may have on such sites either individually or in combination with other development, to consider mitigation within an appropriate assessment rather than at the screening stage. This responsibility now falls to me as the competent authority. Nonetheless, as I am dismissing the appeal for other reasons, I have taken no further action on this issue.
32. I have also taken into account the other concerns raised locally, which do not affect my overall decision.

Conclusion

33. For the reasons given above, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR

⁴ People over Wind and Peter Sweetman v Coillte Teoranta (Case C-323/17)