



Appeal Decision

Site visit made on 22 July 2020

by G Rollings BA (Hons) MAUD MRTPI

An Inspector appointed by the Secretary of State

Decision date: 18th August 2020

Appeal Ref: APP/M9496/W/19/3240770

Land off Church Lane, Rainow, SK10 5XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Equity Housing Group against Peak District National Park Authority.
 - The application Ref NP/CEC/0919/1002, is dated 06 September 2019.
 - The development proposed is the construction of 9no. residential units (use class C3), comprising 2no. one-bedroom flats, 2no. two-bedroom dwellings and 2no. three-bedroom dwellings for affordable rent, and 3no. three-bedroom dwellings for shared ownership, associated car parking, creation of new access, landscaping and associated works.
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Decision

1. The appeal is dismissed and planning permission for the construction of 9no. residential units (use class C3), comprising 2no. one-bedroom flats, 2no. two-bedroom dwellings and 2no. three-bedroom dwellings for affordable rent, and 3no. three-bedroom dwellings for shared ownership, associated car parking, creation of new access, landscaping and associated works, at land off Church Lane, Rainow, SK10 5XE, is refused.

Main Issues

2. The appeal was made before the Authority issued its decision on the application. However, the Authority's planning committee provided several reasons stating why the application would have been refused permission, and issued a virtual refusal notice, which have been directly addressed by the appellant. I have drawn the main issues in this appeal from this evidence.
3. The main issues are the effect of the proposed development on:
 - the local housing supply, with reference to affordable housing and development in a National Park;
 - the character and appearance of the National Park and adjoining Conservation Area;
 - highway safety, with particular regard to site access;
 - climate change and sustainability; and
 - the local ecology.

Reasons

Local housing supply

4. The site is within the boundary of the Peak District National Park, and on the edge of the village of Rainow, which is almost wholly outside of the Park. There are no targets for the supply of housing land within national parks, but Policy DS1 of the *Peak District National Park Local Development Framework Core Strategy Development Plan Document* (2011) (the 'Core Strategy') states that within named settlements, of which Rainow is one, that there is scope for new-build affordable housing development inside the Park. In addition, Policy HC1 sets out a general presumption against new housing in the Park, but sets out that an exception can be made where it addresses eligible local needs for affordable housing. Part 2 of the Authority's Local Plan, the *Development Management Policies* (2019) (the 'DMP'), specifically Policy DMH1, allows new affordable housing to be considered for development within the Park on the edge of named settlements, of which Rainow is one.
5. Cheshire East Council, within which most of Rainow is located, has produced a recent assessment of housing need for the area: the *Rural Housing Needs Survey 2019 Rainow Parish* (the 'Housing Survey'). In developing the assessment, it surveyed all residential households and concluded that at least 38 affordable homes would be required in the parish within five years. This does not identify separate areas of need inside and outside the National Park boundary, and although the Authority suggests that most of the need and therefore most of the demand would be located outside the boundary, there is no clear evidence to support this assumption. Nonetheless, I accept that there is a need for new affordable housing to be provided within Rainow.
6. Core Strategy Policy DS1 also sets out where there is uncertainty as to whether there is capacity for development within a settlement, there should be an assessment of site alternatives, having regard to the overall pattern of development, and the character of the area and landscape. Although potential sites are identified within the Housing Survey, it does not provide further information on their potential or deliverability for such development, and thus a bespoke assessment must be undertaken for new development.
7. I have read that much of the land around Rainow is subject to various designations, such as Green Belt, which significantly limits the potential for new housing development. An assessment of site alternatives, together with a community collaborative approach, as recommended by Policy DS1, has been undertaken by the appellant, which focused its consideration of named alternative sites to those identified within the Housing Survey. All of these sites bar the appeal site have been discounted, and only cursory reasons have been provided for each. Whilst I do not disagree with any of the findings, the discounting of the sites is not sufficiently detailed or robust for me to determine that the appeal site is the most suitable for development, in the absence of alternatives. Furthermore, although the appellant notes the involvement of the Parish Council in the assessment, this appears to be limited to the initial identification of the alternative sites as part of the Housing Survey process, and not in the assessment or discounting of their suitability. I acknowledge that previous local authority assessments also found that there were limited sites available for development, but with regard to the current proposal, I am not satisfied that the requirements of Policy DS1 section E have been met.

8. I have taken account of the potential status of the land as a rural exception site. The *National Planning Policy Framework* (the 'Framework') paragraph 77 supports such development where it might satisfy local need for affordable housing. However, this does not negate the requirement for development to be consistent with the Local Plan for the area.
9. I also note the Authority's comments with regard to the requirement of a planning obligation to secure the occupancy of the affordable housing. There is no obligation before me. Even if I were to have found in favour of the appellant on the above matters, the absence of a completed legal agreement would have introduced doubt as to whether the delivery and perpetual occupancy requirements necessary to achieve compliance with CS Policy HC1 could be satisfactorily achieved. The appellant suggests that a planning condition would be sufficient to secure occupation in perpetuity as affordable housing, but given my findings, I have not pursued this consideration or applied the necessary tests of soundness set out in Paragraph 55 of the Framework.
10. I therefore conclude that although the proposed development would meet some of the identified need for affordable housing, thereby benefiting the local housing supply, the evidence supplied in regard to site alternatives and local collaboration does not provide an exception to justify the development of National Park land. There is a clear presumption against this form of development, and the proposal conflicts with Core Strategy Policy HC1 and DMP Policy DMH1, which together exceptionally allow affordable housing development within the Park, subject to the aforementioned tests, amongst other considerations. These policies are generally consistent with the Framework.

Character and appearance

11. In addition to being just within the National Park boundary and on the edge of the settlement of Rainow, the site adjoins the Rainow Conservation Area (but does not lie within it) and has a right of way along the length of its north-eastern boundary. It is bound by Smithy Lane on its north-western boundary, Church Lane to the south east, and the grounds of the Robin Hood pub to the south west.
12. The Conservation Area encompasses the grounds of the pub, the Church Lane highway running alongside the site, and various buildings and grounds opposite. It is generally linear in its coverage, including much of the 'main road' through Rainow within its designation, with views suggesting a village character in the areas closest to the main part of the settlement, and views of open spaces at its extremities providing a spacious character and rural appearance. Most of it is within the Cheshire East Council area, which has not produced an appraisal for the Conservation Area.
13. The majority of Rainow's buildings are located in the settlement outside the Park boundary. Where Church Lane leaves the denser setting of the village and runs past the site, buildings become scattered and the spaces on both sides of the road contribute to a predominantly open, rather than built-up, setting. Leaving the junction at Smithy Lane, there is a clear shift from a developed zone into a more rural area. The reverse is true of the descent into the village along Church Lane, where despite the scattered buildings on the

approach, it is not until passing the pub that there is a sense of arrival into the settlement of Rainow, and not beforehand.

14. The proposed buildings would be arranged in two rows, aligning with both street frontages. There would be some screening of the development from trees to be retained around the property boundaries, particularly along Smithy Lane, where the boundary was verdant at the time of my visit. However, as mostly deciduous species, the trees would provide a lower level of screening when out of leaf. The buildings would be visible on both Church Lane approaches, and despite the seasonal vegetation screening and other screening such as the pub building, the row of dwellings along the front boundary would be particularly obvious. Given the current semi-rural nature of these views, the development would appear overly dense, and thereby obtrusive, and would extend the built-up area of the settlement further up Church Lane encroaching into an area of more rural appearance. This, together with the changes to views into and from the Conservation Area, and would fail to preserve its character and appearance.
15. The design of the proposed dwellings would use materials and features similar to those found elsewhere in the local area. I have taken account of the comments of both main parties in comparing the proposal with the guidelines as set out in design guides and have observed both similarities and deviations. On the whole, the appearance of the dwellings would not be out of place in comparison with the overall style of architecture within the Rainow. I acknowledge that there are some concerns with details of the proposal, such as boundary treatment, which might perhaps have been improved through the use of planning conditions, were I to allow the appeal.
16. However, the proposed density of the development is a significant concern, as it would manifest in a significant quantum of built form and hardstanding on the site, in an area of otherwise scattered housing and general openness. The form of the development is more in line with a development in the centre of a settlement, rather than a rural edge, and particularly one in a National Park landscape. In conjunction with the considerations that I have set out above, the development would appear incongruous in its location, which would further harm both the setting of the adjacent conservation area, failing to preserve its character and appearance, and the rural landscape of the National Park. There are also other viewpoints from which the development would be visible, but I consider that the harm arising from those identified above provide sufficient reason for me to determine this main issue.
17. In accordance with paragraph 196 of the Framework, I consider that the harm to the Conservation Area, as a designated heritage asset, would be less than substantial. The scheme would provide significant public benefits in affordable housing and meeting local accommodation needs, but although finely balanced, these benefits do not outweigh the harm. Considered in conjunction with the harm to the landscape character of the National Park, these benefits are clearly outweighed by the cumulative harm.
18. The site is subject to a Tree Preservation Order and the Authority is satisfied that there would be no adverse impact on protected trees. Having considered the evidence, I see no reason to disagree.
19. However, I conclude on this main issue that the proposed development would have a harmful impact on the character and appearance of the area, and would

conflict with Core Strategy Policies GSP1, GSP3, L1, L3, and DMP Policies DMC1, DMC3, DMC5, DMC8 and DMC13. Together, these seek to preserve or enhance the significance of conservation areas and their setting, and the landscape character of the National Park, and provide development with an appropriate design quality, amongst other factors, and are consistent with the aims of the Framework.

Highway safety

20. Both road approaches to the site along Church Lane are on substantial gradients. The approach from the east, which is on a downward slope, comes shortly after a bend in the road in which driver visibility of the proposed access point is restricted by a retaining wall. There is also a reduction in the road speed limit at this location. Nonetheless, the National Park Authority is satisfied that suitable visibility splays can be provided at the site entrance.
21. The obstruction of the sightlines by the retaining wall is a concern, as approaching traffic would have minimal warning of the need to slow for a vehicle waiting to turn right into the site. The traffic calming scheme proposed by the appellant would not be supported by the Highways Authority due to the costs of its maintenance, nor the National Park Authority as a result of the visibility issue. With regard to the former, the appellant points out that the existing road markings require maintenance, but I have no evidence to suggest that the costs of maintaining these would be less onerous than the proposed. The fact that the suggested additions are bespoke safety measures, which would need to be maintained so that they remain constantly visible to achieve their intended purpose, suggests the opposite. The visibility of the access was partly addressed by the appellant with a redesign of the scheme, but based on my own observations of the site and approaches and the concerns expressed by the Authority, I consider that that the proposal would present a risk to users of the highway, compared with current conditions.
22. I therefore conclude that the proposed development would be harmful to highway safety. It would conflict with DMP Policy DMT3, which requires new development to provide safe access for all, amongst other considerations, and which is consistent with the Framework.

Climate change and sustainability

23. The Authority's concerns relate to the manner in which the development would mitigate the impacts of climate change through sustainable design and construction. No specific evidence has been provided by the appellant to demonstrate that this could be achieved, although the appellant has suggested that this could be resolved using a planning condition.
24. The Framework (at paragraph 150) recommends that development takes account of opportunities to reduce greenhouse emissions through location, orientation and design of dwellings, and (at paragraph 153) of landform, layout, building orientation, massing and landscaping to minimise energy consumption. To properly achieve these aspirations, they should be 'built in' to the design, thereby requiring consideration from the start of the design process. I do not have sufficient information before me to determine whether the development can achieve the aspirations of the Framework, nor am I convinced that these aims could be achieved by using a planning condition to instigate changes or additions to the proposal at this stage of the process.

25. I therefore conclude on this main issue that the proposed development would not achieve the highest possible standards of carbon reductions and water efficiency in order to mitigate the causes of climate change, as required by CS Policy CC1, and as such I cannot be certain that it would not have a harmful effect on climate change and sustainability. It would also conflict with the Framework, for the reasons set out above.

Local ecology

26. The Authority refers to the loss of on-site woodland habitat, which was removed prior to the appeal, and notes that regrowth since then has provided some potential for bird nesting and habitation by badgers and bats. However, the appellant's initial evidence, produced in 2018, suggests that the site had moderate potential for nesting, with low potential for bat foraging, and no on-site badger setts.
27. Although landscaped areas are proposed within the development, these would be limited in area by the amount of built and hard-landscaped areas. Nonetheless, given the low to moderate potential of the site to support the habitat and the absence of any features of biodiversity importance, there would be minimal harm to the ecology of the site. Were the appeal to be allowed, I would be satisfied that habitat alteration mitigation could be satisfied by condition.
28. I therefore conclude that the proposed development would not have a significantly harmful impact on local biodiversity, and would not conflict with CS Policies GSP1 and L2, and DMP Policies DMC11 and DMC13, which together require development to avoid adverse impacts to sites of biodiversity importance, amongst other considerations. These policies are generally consistent with the Framework.

Conclusion

29. I have found that the proposed development would not have a significantly harmful impact on local ecology. However, this absence of harm does not mitigate harm in respect of the other main issues. In arriving at my decision, I have taken into account the benefit in providing affordable housing, which would reduce the area-wide need for such accommodation. This is outweighed by the substantial harm of developing a site in a National Park, the impact on its character and appearance and the Conservation Area, and highway safety, and potential harm to climate change and sustainability.
30. For the reasons given above I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR