
Appeal Decision

Site visit made on 18 August 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/Y3940/W/20/3245661

Oak Tree Farm, Crawlboys Lane, Ludgershall SP11 9PL

- 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 Scruse against the decision of Wiltshire Council.
 - The application Ref 19/09902/FUL, dated 15 October 2019, was refused by notice dated 10 December 2019.
 - The development proposed is described as demolition of poultry shed and agricultural store and erection of 5 no. dwellings with access and parking. Erection of new agricultural store.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have omitted the phrase 'following withdrawal of 18/09957/FUL' from the description of development in the banner heading above, as this does not describe an act of development.

Main Issue

3. The main issue is whether the site is a suitable location for the proposed residential development with regard to its effect on the character and appearance of the area.

Reasons

4. Core Policies 1 and 2 of the Wiltshire Core Strategy 2015 (the CS), which set out the settlement strategy, direct development to locations within defined settlements. Ludgershall is one such settlement, which Core Policies 1 and 26 of the CS identify as a market town. Development outside defined settlements is restricted. I acknowledge that the appellant believes that the CS is not in conformity with the National Planning Policy Framework (the Framework). However, insofar as the above policies seek to ensure the sustainable distribution of development, and serve to safeguard the countryside, I consider that they are broadly consistent with policy as set out within the Framework.
5. As the site falls just outside the defined settlement boundary of Ludgershall, the residential component of the scheme would clearly conflict with Core Policies 1, 2 and 26. In this regard the Council's principal concern is that the development would cause harm to the character and appearance of the area.

6. Until relatively recently the site contained 2 long chicken sheds arranged parallel to Crawlboys Lane. One of these sheds has been removed, but related hoppers, hardstanding and retaining walls remain. The site of the chicken shed currently forms a gap in the lane frontage between the extant chicken shed, and a ribbon of suburban bungalows which lie to the south. Though this ribbon is included within the settlement boundary, it is poorly related to the broader layout of Ludgershall, given that it forms a perceptible protrusion into the rural setting of the settlement.
7. The setting of the site itself otherwise consists of predominantly open agricultural land. In this context the existing buildings on the site are discernibly agricultural, and of clearly different character to the residential development to the south. The gap formed by removal of one of the chicken sheds allows a view towards open land and trees beyond. Notwithstanding the fact that it contains the remnants of the former chicken shed, the gap currently serves to emphasise the transition between the settlement and its rural setting, particularly when travelling northwards along Crawlboys Lane.
8. In the proposed location, the dwellings would form an elongation of the existing ribbon of housing along Crawlboys Lane. This would increase the extent of the existing protrusion of the ribbon into the rural setting of Ludgershall, accentuating its poor relationship with the layout of the rest of the settlement. The effect would be harmfully intrusive within its setting, and, in view of the elevated position of the dwellings above Crawlboys Lane, not meaningfully alleviated by landscaping.
9. Planning permission reference 19/05595/FUL (the approved scheme) was previously granted for construction of 5 dwellings in place of the extant chicken shed. This approval was granted contrary to the CS policies outlined above, principally on the basis that the Council had previously given its prior approval for a 5 dwelling conversion of the chicken shed under Class Q, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (hereafter Class Q). In this regard the appeal proposal has been advanced as a less harmful alternative to the approved scheme. The appellant has indeed strongly indicated that the latter would be implemented if the appeal scheme was dismissed. I see no reason to doubt this.
10. The approved scheme would involve the construction of dwellings a little further from the settlement edge than the appeal scheme, separated from it by the site of the former chicken shed. Unlike the domestic designs proposed within the appeal scheme, the design of the dwellings has been influenced by that of the chicken shed. Their form and massing would however differ, and viewed in profile, and relative to related parking and other domestic paraphernalia that would exist within the immediate setting, it is unlikely that they would be mistaken for agricultural buildings. Thus, whilst the approved scheme would not elongate the existing ribbon, it would, together with the farmhouse to the north, nonetheless entail the creation of a distinctly residential cluster of development close to the settlement edge.
11. It is apparent that the point of transition between the perceived settlement edge and its rural setting would be poorly defined within the approved scheme. This is because, when travelling north along Crawlboys Lane, residential development would be seen to recommence after a brief gap. In contrast, the

fact that dwellings within the appeal scheme would directly elongate the existing ribbon, would mean that a more distinct point of transition between it and rural setting would exist. This could be reinforced by landscaping between Unit 1 and the proposed agricultural store. In this way the farmhouse would remain discernibly separated from other development to the south, and would retain its existing rural identity. The resulting extent of intrusion into the rural setting of the settlement would, in consequence, be moderately less in the appeal scheme than in the approved scheme. It follows that if implemented in its entirety, the appeal scheme would be moderately less harmful.

12. The level of harm would however differ significantly if residential development was in fact to occur on the sites of both the existing and the former chicken sheds. Such a potential arises due to the fact that the residential component of the appeal scheme, and that subject of all previous schemes, do not overlap. Indeed, in the event that residential development was to occur across the site, the existing ribbon would undergo a substantial consolidation and extension. This would both greatly exacerbate its poor relationship with the form and layout of the settlement at large, and push the point of transition between the perceived settlement edge and the rural setting of Ludgershall north of the farmhouse. The extent of intrusion caused would be far greater than in either the approved or the appeal schemes. The harm caused to the character and appearance of the area would be considerable, and for this reason, unacceptable.
13. To this end a Unilateral Undertaking (UU) has been submitted whose terms would prevent the all previous schemes being implemented in relation to the site of the existing chicken shed if the appeal scheme was implemented. Demolition of the chicken shed could itself also be secured by condition.
14. The Council has offered conflicting views on the validity of the UU, accepting on the one hand that it would be effective, whilst subsequently stating that it is objectionable due to ambiguity. In the latter regard the Council requested a range of amendments, but these have not been made.
15. Of more particular concern is the fact that, as drafted, the UU would not prevent existing permitted development rights from being exercised within the site before planning permission granted in relation to the appeal scheme was implemented. Consequently, the appellant, or any successor in title, would not be prevented from again seeking to exercise Class Q rights in relation to the extant chicken shed. Notwithstanding minor amendments made to Class Q since prior approval was last given by the Council, without any legal undertaking in place to forgo these rights, I consider that the realistic potential would therefore exist for residential development to occur on the sites of both the existing and the former chicken sheds were the appeal to be allowed. This loophole could not be closed by condition, and nor would any condition requiring demolition of the chicken shed be effective if the chicken shed no longer existed as such when the condition took effect. The harm caused in this scenario would be as outlined above.
16. The UU would not therefore be effective in its purpose of preventing more extensive residential development of the site as a whole than was permitted within either the approved scheme, or is proposed within the appeal scheme. Thus, I attach very little weight to the UU, and very little weight to the fact that the appeal scheme would be moderately less harmful than the approved

scheme. Instead I attach significant weight to the potential for unacceptable harm to the character and appearance of the area to arise in the event of the appeal being allowed.

17. For the reasons outlined above, I conclude that the site is an unsuitable location for the proposed residential development due to the harm that it would cause to the character and appearance of the area, considered in combination with the harm to which it would be likely to give rise. Whilst the development would otherwise clearly conflict with settlement strategy as set out in Core Policies 1, 2 and 26 of the CS, and as outlined above, it would thus also conflict with Core Policy 51 of the CS, which seeks to protect, conserve and where possible enhance landscape character, and Core Policy 57 of the CS, which seeks to secure high quality design and place shaping outcomes.

Other Matters

18. The scheme includes an agricultural store. This would occupy part of the site of the extant chicken shed, and in small part replace a structure removed to allow construction of the dwellings. In this regard the Council expressed no concerns in its officer report and decision notice. The size of and need for the building has nonetheless been questioned at appeal, but without any particular reasons being given. As none are otherwise apparent, I see no clear grounds for objection.
19. The agricultural store is clearly severable from the residential component of the appeal scheme. The potential would thus exist to issue a split decision in the event that the residential component was found to be unacceptable. In my view however, this would serve no useful purpose given that construction of the store would prevent full implementation of the approved scheme.
20. The appellant states that Ludgershall would be more accessible from the proposed dwellings than from those in the approved scheme, and that land remediation and habitat creation should be considered as benefits weighing in its favour. In relation to the distance into Ludgershall, there would in fact be very little difference between the approved and appeal schemes, and, in the case of Unit 1, almost none. In relation to contamination, I accept that paragraph 118 of the Framework indicates that decision should support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated land. However, in this case the appeal scheme would not be 'appropriate' in view of my findings above. Finally, and with regard to habitats, it is not clearly apparent in what way the appeal scheme would be beneficial. These points do not therefore attract weight as considerations in favour of the appeal scheme.
21. The Council cannot currently demonstrate a 5-year supply of deliverable housing sites. In this context I note that the Inspector in a recent appeal reference APP/Y3940/W/18/3202551 noted that the supply lay in the range of 4.42-4.62 years, thus indicating a modest shortfall. It follows that the policies most important for determining the application should be considered out-of-date, and, as specific policies within the Framework that protect areas or assets of particular importance are not applicable, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits.

22. The appeal scheme would provide 5 dwellings. However so too would the approved scheme. In view of the appellant's intention to implement the approved scheme in the event the appeal was dismissed, it is therefore apparent that 5 dwellings would be provided on the site either way. I therefore attach neutral weight to the social and economic benefits that would arise from the provision of 5 dwellings within the appeal scheme. Indeed, substantially the same benefits would be delivered by the approved scheme. In this regard the various paragraphs of the Framework referenced by the appellant in support of the provision of housing do not alter my view, given that they apply equally to the approved scheme.
23. Though I have found above that a greater amount of residential development may in fact take place across the site in the event that the appeal was allowed, this does not lend any additional weight in favour of the appeal proposal. This is because the proposal does not itself include housing on the site of the extant chicken shed.
24. For the above reasons I find that when assessed against the policies in the Framework taken as a whole, the harm that the development would cause to the character and appearance of the area considered in combination with the harm to which it would be likely to give rise, would significantly and demonstrably outweigh the social, economic and environmental benefits of the appeal scheme.

Conclusion

25. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR