The Planning Inspectorate

Appeal Decision

Site visit made on 4 September 2020

by L McKay MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 05 October 2020

Appeal Ref: APP/D1265/W/20/3251494
Area of land north of Icen Lane, Weymouth, Dorset DT3 6DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
- The appeal is made by Mr J Phillips against the decision of Dorset Council.
- The application Ref WD/D/20/000321, dated 5 February 2020, was refused by notice dated 11 March 2020.
- The development proposed is demolition of agricultural barn and erection of up to 5 dwellings.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal is for a Permission in Principle (PIP). The Planning Practice Guidance (PPG) explains that this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail. The PIP consent route has 2 stages: the first stage establishes whether a site is suitable in principle, and the second stage, the technical details consent, is when the detailed development proposals are assessed. The scope of the first stage is limited to location, land use and amount of development. The amount of development for which PIP is sought can be expressed as a range.

3. This appeal proposal is at the first stage and PIP is sought for a minimum of 4 and a maximum of 5 dwellings. Therefore, although the appellant has submitted a sketch layout plan, I have considered this as being indicative only.

Main Issues

4. The main issue is whether the principle of the proposed development is acceptable with specific regard to its location, land use and amount of development, and the consequent effect on the character and appearance of the area and the Dorset Area of Outstanding Natural Beauty (AONB).

Reasons

Location

5. The appeal site is close to, but outside of any Defined Development Boundary (DBB) defined in the West Dorset, Weymouth and Portland Local Plan (2015) (LP). Outside of DBB's, LP Policy SUS2 sets out that development will be strictly controlled, having particular regard to the need for the protection of the countryside and environmental constraints, and will be restricted to specified types

of development. Although the site was part of a larger area of land put forward for consideration in the Council's Strategic Housing and Employment Land Availability Assessment (SHELAA), it is not subject to a specific allocation in a development plan document. Nor does it fall within any of the other development types listed. Therefore, the proposal would conflict with LP Policy SUS2.

6. Although the frame of a barn remains on site, the evidence before me indicates that the site was in agricultural use, and as such it is not previously developed land (PDL) as defined in the National Planning Policy Framework (the Framework). As such, the proposal would not benefit from the Framework's support for use of PDL.

7. There are limited services and facilities in the vicinity of the site, and while occupants of the proposed dwellings would be likely to provide some support to them, the contribution of 4 or 5 dwellings would be limited. There are however bus stops along Littlemoor Road and Dorchester Road serving two routes to Weymouth and Dorchester, both of which have a wide range of facilities and services. Those routes provide frequent services from early morning to late evening Monday to Saturday and less frequent but nevertheless regular services on Sundays and Bank Holidays.

8. Both sets of bus stops are within walking distance of the appeal site via Icen Lane and Old Station Road, or along Nightingale Drive to Littlemoor Road. Those routes involve navigating lengths of road without footway, uphill sections and narrow stretches under railway bridges, however those are relatively short sections, and they are lit by streetlights with reasonable visibility for drivers and pedestrians. Furthermore, there is also an extensive network of public rights of way close to the site, including a hardsurfaced pedestrian/cycle path along the route of the A354, part of national cycle route (NCR) 26, which provides access to Upwey railway station. Consequently, there would be some non-car modes of travel available to future residents of the site, and it would therefore be in a fairly accessible location.

9. Nevertheless, due to its location outside of the DBB, the proposal would conflict with the settlement strategy in the LP and there is no substantive evidence before me that it would make any significant contribution towards enhancing or maintaining the vitality of the community, as supported by the Framework.

Character and appearance of the area and AONB

10. LP Policy ENV1 sets out that the plan area's exceptional landscapes will be protected, taking into account the objectives of the Dorset AONB Management Plan (AONB MP), and that development which would harm the character, special qualities or natural beauty of the Dorset AONB will not be permitted.

11. The AONB is recognised for its collection of fine landscapes, including chalk downland, limestone country, greensand ridges and clay vales. The appellant's Landscape and Visual Impact Assessment (LVIA) identifies that the appeal site is within the Ridge and Vale landscape type and Osmington Ridge and Vale landscape character area (LCA). The key characteristics of the LCA include a broad pastoral clay vale landscape, a continuous patchwork of complex regular fields, settlements along escarpment base and valley floors, and an undeveloped rural character away from the conurbation and the coast. Urban fringe land uses and farm buildings in a poor state of repair are identified as detrimental features in the LCA, and the edges of the Weymouth conurbation are identified as having a negative impact on landscape character in the Ridge and Vale landscape type. The LVIA identifies that the key management objective will be to "re-create and improve the urban fringe landscapes, with new woodland planting, greenspace provision and reduce the impact of urban fringe".

12. The appeal site lies on the northern side of Icen Lane and is bounded by a single dwelling and open fields. Mature hedges give this part of the lane a green, enclosed character, however gaps in the hedgerow provide views out to the open, undeveloped countryside beyond. Opposite the site and to the east are further areas of undeveloped land linking to NCR26, which offers expansive views over the countryside. Consequently, this end of the lane has a rural character, distinctly different to the housing estate further along Icen Lane to the south-west, where relatively dense development creates a suburban character.

13. At the time of my visit the interior of the appeal site had largely been cleared of vegetation, however the hedges alongside the lane and around part of the side and rear boundaries remained. From the access there were views through the site to the fields behind, while from NCR26 a sizeable gap in the rear boundary hedge provided views through the frame of the barn into the interior of the site. From NCR26 the housing estate beyond was well screened by vegetation, with only glimpses of roofs visible behind the appeal site. As such, Icen lane and the hedges along it provide a physical and visual separation between the settlement and the countryside beyond, and the site makes a positive contribution to the rural character of the area north of the Lane.

14. The design and layout of the proposal is not fixed at this stage, however the introduction of 4 or 5 dwellings would inevitably result in a considerable change to the character of the site, with the introduction of built form and associated parking, subdivisions between plots and domestic paraphernalia. The retention of the existing hedge would go some way to mitigating the impact of development of the site from Icen Lane, however even with the hedge the LVIA addendum identifies that the proposed development, 'will be perceived in close proximity' from the lane and adjacent houses. While it may not be unexpected to perceive houses on the fringe of a settlement, the proposal would nevertheless introduce further built form on this largely undeveloped side of Icen Lane, extending the urban fringe.

15. Although the LVIA assesses one viewpoint along NCR26, the location chosen was adjacent to the neighbouring dwelling which largely screens the site from view. Further north along NCR26, the gap in the rear hedgerow and rising land levels afford views down into the site and, given the amount of development proposed, the expansion of built form on the northern side of Icen Lane would be evident from that public viewpoint. The vegetation along Icen Lane would provide visual separation between the site and the settlement beyond, and as such the proposal would not appear as part of Weymouth as the appellant suggests.

16. Although the appellant's LVIA addendum proposes additional landscaping along the site's rear boundary, I have only a broad outline of what this would comprise, and no information on how long the planting would take to establish, or how effective it would be in screening the proposed development. Additional planting alongside NCR26 is also proposed, however from the evidence before me it is unclear whether the appellant owns or controls that land, and therefore whether the landscaping could be delivered. Moreover, the Planning Practice Guidance (PPG) sets out that it is not possible for conditions to be attached to a grant of PIP, nor can planning obligations be secured at this first stage[1]. Consequently, it has not been demonstrated that the degree of screening envisaged in the LVIA addendum could be achieved, and as such I cannot be sure that the proposal would be 'difficult to perceive' as that document suggests.

17. Consequently, due to the amount of development proposed, in this location, the proposal would significantly detract from the rural, largely undeveloped character

[1] Paragraphs 020 Reference ID: 58-020-20180615 and 022 Reference ID: 58-022-20180615

and appearance of the area and would expand, rather than reduce, the impact of the urban fringe. Therefore, it would negatively impact on the landscape character of this part of the AONB. Due to the topography of the area the extent of these visual and landscape impacts would be relatively modest, but would nevertheless adversely affect the landscape and scenic beauty of the AONB. As such, the proposal would conflict with LP Policy ENV1 and the provisions of Framework paragraphs 127 and 172, which require development to be sympathetic to local character and give great weight to conserving and enhancing landscape and scenic beauty in AONBs. Accordingly, I afford the harm to the AONB significant weight.

18. I recognise that the AONB includes part of the urban fringe of Weymouth, however the appellant's own LVIA identifies this as an anomaly that does not reflect the core characteristics that make the AONB special. Therefore, the inclusion of that area in the designation does not justify further harm to the special qualities of the AONB. Nor does the Council's strategic allocation of another site within the AONB for housing, as the suitability of that site would have been assessed through the development plan process, which is not the case for the appeal site.

19. I note the appellant's concern that the Council did not consult a Landscape or AONB officer and gave weight to public perception of the impacts of the proposal. However, I have found harm based on the evidence before me, which includes the detailed analysis in the appellant's LVIA.

Conclusion on main issue

20. Overall therefore, the proposal would conflict with the settlement strategy in the development plan and LP Policy SUS2 and would result in harm to the character and appearance of the area and the AONB, contrary to Policy ENV1 and the Framework. As such, the principle of the proposed development would not be acceptable with specific regard to the location, land use and amount of development proposed.

Planning Balance and Conclusion

21. There is no dispute between the main parties that the Council cannot currently demonstrate a 5-year supply of housing land as required by the Framework. However, there is some difference between them regarding the extent of the shortfall. The Council has referred me to a December 2019 appeal decision[2] where the Inspector concluded that there was between 4.12 and 4.88 years supply, using a base date of 1 April 2018. However, the appellant has provided figures from April 2019, published in March 2020, which indicate 4.83 years supply and are therefore more recent. Whichever figures are used, Framework paragraph 11d) applies and footnote 7 means that the policies most important for determining this appeal are out-of-date.

22. LP Policy INT1 sets out a presumption in favour of sustainable development that will improve the economic, social and environmental conditions in the area. It provides that where there are no policies relevant to an application, or relevant policies are out of date at the time of making the decision, specific other matters will be taken into account.

23. The proposal would contribute to housing supply in a fairly accessible location and would make efficient use of land, as supported by the Framework. It would also provide economic benefits through construction and spending by future occupants. However, as the mix of housing is not yet known, it has not been demonstrated that the proposal would deliver against local housing needs. Nor is there any

[2] APP/D1265/W/18/3206269

mechanism before me to secure any of the plots as self-build as the appellant suggests, given that neither conditions or planning obligations can be secured. Even if the 5-year supply is at the lower end of the range suggested by the Council, the shortfall would only be modest. Therefore, given the small number of dwellings proposed, the contribution of this proposal to the economy and housing supply would be limited, and carries limited weight.

24. The appellant has drawn my attention to the Examining Inspector's report for the LP, which set out that it was 'imperative that the Councils do not ignore new opportunities which come forward in sustainable locations and are consistent with other policy provisions'. However, as this proposal would not be consistent with other policy provisions, the Examining Inspector's comments do not weigh in favour of granting permission.

25. Accordingly, the proposal would make only a limited contribution to the LP strategic objectives of supporting the local economy and supporting sustainable communities, and would conflict with the strategic objective to protect and enhance the outstanding natural environment. At this first stage of the PIP process I cannot consider other objectives which relate to technical. Framework paragraph 172 also indicates that development in AONBs should be limited. Overall therefore, the proposal would conflict with LP Policy INT1.

26. The Council also cites LP Policies SUS1 and ENV2 in its reason for refusal. Policy SUS1 sets out the supply of housing required in the plan period, but does not preclude development in the countryside and as such I find no conflict with that Policy. Policy ENV2 seeks to protect wildlife and habitats and supports proposals that conserve or enhance biodiversity. The evidence before me indicates that, with appropriate working methods, the proposal would not harm protected species, and with landscaping and other enhancement measures, it could achieve a net gain in biodiversity. As such there would be no obvious conflict with Policy ENV2. The lack of conflict with these policies is however a neutral matter and does not weigh in favour of the proposal.

27. There is also no substantive evidence before me to suggest that a design could not be achieved at technical details stage which would limit the impacts of the proposal on the highway network and the living conditions of existing and future occupiers to an acceptable level, particularly as a turning head is apparently not needed. The absence of harm is however of neutral consequence in the planning balance.

28. The appellant has identified two other developments approved outside of the DBB and in the AONB, at Land East of 13 Winters Lane and Land adjacent Malthouse Meadow[3]. I note however that the Council concluded that the Winters Lane scheme would provide safe and convenient access to services in the village, would safeguard the setting of the AONB, and complied with the relevant sections of the Framework, which this proposal would not achieve. It was also considered acceptable on balance, having regard to the 5-year land supply situation at the time, however as I have no details of the shortfall at the time I cannot be certain that it was the same as it is now.

29. I am advised that the Malthouse meadow scheme for 22 dwellings was considered to be a relatively well contained site and adjoined the settlement boundary, however I have no details about any other factors that were weighed in the balance of that scheme. As such, I cannot be certain that the circumstances were comparable to the scheme before me, which I have considered on its own merits. Therefore, these other decisions carry very limited weight.

[3] Council Refs. WD/D/19/000464 and WD/D/14/002517

30. Accordingly, although it would comply with some LP policies, I conclude that the proposal would conflict with the development plan as a whole. The relevant policies of the LP are consistent with the provisions of the Framework in relation to development in AONBs, plan-led development and impacts on local character and therefore, I afford the conflict with them substantial weight. Given the importance in national and local policy of conserving and enhancing the landscape and scenic beauty of AONBs, the harm to the AONB provides a clear reason for refusing the proposal. As such, having regard to Framework footnote 6, the presumption in favour of sustainable development in paragraph 11d) is not engaged.

31. Having regard to the totality of the evidence before me, I conclude that the adverse impacts of granting planning permission would outweigh the limited benefits of the proposal. There are no material considerations, including the Framework, that indicate that the decision should be taken otherwise than in accordance with the development plan. Consequently, the appeal is dismissed.

L McKay

INSPECTOR