

Appeal Decision

Site visit made on 13 October 2020

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/K2420/W/20/3255456

Land off Veros Lane, Nailstone, Warwickshire CV13 0QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms C Dixie against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 19/01304/OUT, dated 19 November 2019, was refused by notice dated 14 January 2020.
 - The development proposed is the erection of two dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved. Indicative plans have been submitted which show site layouts and details of dwellings. However, I have given these very limited weight as details of access, appearance, landscaping, layout and scale are reserved matters.
3. There appears to be some variation in documents as to whether the site is accessed from "Veros Lane" or "Vero's Lane". It is clear to me that the two are the same, so for consistency, in my header above, and decision below, I have used the former.

Main Issues

4. The main issues are;
 - whether the site is an appropriate location for the development proposed having regard to the settlement boundary and the character and appearance of the area
 - the effect of the proposal on the setting of the Conservation Area, and
 - the effect of the proposal on highway safety.

Reasons

The settlement boundary, character and appearance

5. The appeal site lies immediately adjacent to, but beyond, the settlement boundary of Nailstone, but is currently a largely open field, with a stable and outbuilding. There is no separation on the ground between the appeal site and the wider field in which it is located. The village has a core of older buildings and farm buildings, as well as an area of more recent housing at The Oval,

close to the appeal site. The built form of the village is concentrated on the roads which run through it; the site and its immediate environs do, in my view, have a rural, undeveloped, countryside character and appearance, which persists, even this close to the rear of properties on Veros Lane, Main Street and Occupation Road.

6. The proposal would, by developing the site, extend the built form of the village away from the roads within it, and out into what is currently designated as open countryside. Much of the existing built form of Nailstone is concentrated on either side of the roads within the village, and there is a very limited amount of development of the back-land form and nature proposed. As a result, the built area of the village has a very close relationship to the open countryside outside it, including the appeal site, and this has an important role to play in the character of the village and the wider area.
7. Close to the site, the Yew Tree Farm development has altered the appearance of that part of the edge of the village. I also note the presence of the housing on The Oval, and the spatial relationship of the site to those areas and the open countryside beyond. However, I consider that the rounding off of the settlement through the development of the site would cause harm to the character and appearance of the area, by altering the current intimate and clear relationship of the village with the open countryside, and separating the village core from the open countryside.
8. The proposal is therefore contrary to Policy 12 of the Local Development Framework Core Strategy, adopted December 2009 (the Core Strategy), which seeks to limit residential development in Nailstone to within the settlement boundary. It is also contrary to Policy DM4 of the Local Plan 2006-2026 Site Allocations and Development Management Policies DPD, adopted July 2016 (the Local Plan) which seeks to protect the countryside for, amongst other things, its open character, and its landscape character. The proposal would also conflict with Policies DM1 and DM10 of the Local Plan, which seek, amongst other things, to ensure that development accords with the development plan as a whole and complements the character of an area.

Conservation Area

9. The site is adjacent to the Nailstone Conservation Area (the CA). The Nailstone Conservation Area Appraisal and Management Plan, adopted September 2015 (the CAAMP) identifies key characteristics of the CA, including the agricultural landscape setting of the CA, views into and out of the countryside from the village, the predominance of the remaining farmstead layouts and the continuity of the scale, form and materials of the CA.
10. That character is apparent from Main Street looking along and beyond Veros Lane, and from Veros Lane itself. That rural, agricultural character is also apparent within the wider village and its surroundings including when approaching the village.
11. The appeal site contributes positively to the significance of the CA, by preserving that rural character, bringing it close to the built form of the village. This close relationship of the countryside to the built form does, in my view contribute to the wider landscape setting of the village, and the intimate relationship between the built form of the CA and the unbuilt form of the open countryside beyond both the CA boundary and the settlement boundary.

12. The proposal would, by developing the site, alter the relationship of the CA to the countryside by introducing a buffer of built form between them, which does not currently exist in this part of the village. This would begin to separate the CA from the agricultural landscape and countryside setting, which is so important to the character and significance of the CA as a heritage asset. The proposal would therefore harm the setting of the CA.
13. As a result, the proposal would conflict with Policies DM11 and DM12 of the Local Plan, which seek, amongst other things, to ensure that development protects, conserves and enhances heritage assets through careful management of development, and that proposals should, in particular preserve and enhance key views into and out of the CA.
14. I therefore conclude that as a result of the harm to its setting, the proposal fails to preserve the character or appearance of the CA and would cause less than substantial harm to its significance as a designated asset. Paragraph 196 of the National Planning Policy Framework (the Framework) requires that this harm should be weighed against the public benefits of the proposal. These have been identified as the provision of two houses, in an area where a shortfall exists (although I return to this point). To my mind, those benefits are limited by the scale of the proposal and, having regard to the great weight to be given to the asset's conservation, I do not consider that those limited benefits outweigh the harm that I have found.

Highway safety

15. The appellant has submitted statutory declarations in an attempt to establish that a lawful equestrian use exists on the site, and that this use, and the level of vehicle movements associated with it should be factored into any assessment of the highway safety effects of the proposal. The Council and the LHA do not appear to accept this position. In any case, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 and other mechanisms exist to establish whether or not that is the case. On the basis of the evidence before me, including my observations on site, I have therefore determined this appeal from the starting point that there is no current authorised equestrian use of the land.
16. I also note the methodological disagreement between the appellant and Leicestershire County Council as the Local Highway Authority (LHA) with regard to the measurement of the vision splays required to ensure that the right-turn from the A447 onto Veros Lane meets suitable standards.
17. Notwithstanding this dispute, there is a record of accidents along the A447 close to the site, generally involving stationary or turning vehicles. Along the A447, before, at and beyond the junction with Veros Lane, the road has changes in elevation, as well as a number of bends, generally lined with trees, hedging and a relatively small verge, all of which does limit forward visibility. As such, I consider that to introduce additional stationary or turning vehicles onto this section of road would be potentially harmful to highway safety.
18. On the basis of my observations during my site visit, as well as having made the turn into Veros Lane from both directions a number of times, on balance, I find the evidence of the LHA more convincing and representative of the conditions at and use of the junction.

19. I acknowledge that there will be vehicle movements associated with other uses of Veros Lane, and that there are a number of gates and accesses along it. However, from my observations, there was little evidence of these being in regular, frequent use. I also accept that as a public highway, there will be use of the road which is not subject to control through this application. That does not however preclude me from considering the effect of the likely additional vehicle movements associated with this proposal on highway safety. As such, I consider that the proposal would lead to a significant increase in the use of Veros Lane and the junction into it from the A447. Given my conclusions on the adequacy of the visibility approaching this junction, I consider that the proposal would therefore be likely to cause harm to highway safety.
20. The proposal is therefore contrary to Policy DM17 of the Local Plan, which seeks to ensure that development has no significant adverse impact on highway safety. It would also be contrary to the requirements in the Framework to ensure that safe and suitable access to the site can be achieved and that development would not have an unacceptable impact on highway safety.

Other Matters

21. I note the comparison that the appellant draws between the appeal proposal and a case in Essex, subject to a decision by the Court of Appeal. However, given the differences between that site and this, not least the spatial relationship of the site to the settlement, I do not consider that decision to alter my conclusions on the main issues set out above. To my mind and reading of their decision, the reference by the Council to the sustainability of the site relates to the location of the site outside the settlement boundary and the application of the criteria in, and process of Policy DM4 of the Local Plan.
22. I also note the reference to the site within the LDF Consultation Draft of the Preferred Options Report. However, this document, dated 2009, clearly predates the Core Strategy, the Local Plan, and the CAAMP. As such, I give it little weight in the determination of this appeal.

Balance and conclusion

23. The level of housing land supply in the Borough is a matter of dispute between the parties. The Council accepts that at the time of its decision its level of housing land supply had fallen below that required of it, but argues that since then, its position has improved. Nevertheless, the Council considers its policies to be out of date due to their age. The appellant suggests that even if I were to accept the latter position of the Council, the current level of supply is neither robust, nor likely to survive in the face of current circumstances or potential future changes to the methods of calculating and assessing housing land supply. I do not consider this appeal decision to be the appropriate forum to assess how robust the Council's housing land supply position may be in the face of future changes currently under consultation.
24. In light of the comments of the Council, and the submissions of the appellant on the housing land supply position, I consider it appropriate to consider the application in light of the provisions set out in paragraph 11 d) of the Framework without needing to reach a determination on the level of housing land supply in the Borough.

25. I have found above that the proposal would cause less than substantial harm to the significance of the CA as a designated heritage asset, and that this harm is not outweighed by the limited public benefits which would arise from the proposal. As such, the Framework provides a clear reason for refusing the development proposed, and the proposal does not benefit from the presumption in favour of sustainable development. The appellant has suggested that the effect of the proposal on the CA does not engage this test as the CA is not mentioned in Footnote 6. However, a CA is a designated heritage asset.
26. In addition, I have found harm to the character and appearance of the area, conflict with policy aims concerning settlement boundaries and unacceptable harm to highway safety. These are all adverse impacts of granting planning permission which would, in my view significantly and demonstrably outweigh the limited benefits of two additional dwellings, when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development. I find that the relevant policies in the Local Plan referred to above are consistent with the aims of the Framework.
27. Taking all of the above together, I consider that the proposal is significantly contrary to the development plan, and that there are no material considerations of sufficient weight to indicate that a decision be taken other than in accordance with it.
28. For the reasons given above I therefore conclude that the appeal should be dismissed.

S Dean

INSPECTOR