
Appeal Decision

Site visit made on 29 September 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/W1850/W/20/3253472

1A The Grove, Brampton Abbots HR9 7JH

- 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 outline planning permission.
 - The appeal is made by Highworth Homes Ltd against Herefordshire Council.
 - The application Ref 200262/O, is dated 28 January 2020.
 - The development proposed is erection of three bungalows and construction of new vehicular access.
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Decision

1. The appeal is allowed, and outline planning permission is granted for erection of three bungalows and construction of new vehicular access at 1A The Grove, Brampton Abbots HR9 7JH in accordance with the terms of the application, ref 200262/O, dated 28 January 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Outline planning permission is sought with all matters reserved. I have had regard to the details on Drawing No 743-PL10 and Drawing No 743-PL11 but have treated them as illustrative. I have determined the appeal on this basis.
3. The National Planning Policy Framework (Framework) states that the weight given to relevant policies in emerging plans should be according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the plan with the Framework (paragraph 48).
4. Following the submission of the appeal, the draft NDP¹ has progressed having undergone examination, modifications agreed by the Council and is now awaiting referendum. Policy BAF1 is highlighted as relevant to the appeal scheme. The draft NDP is at an advanced stage with objections dealt with in the examination and changes recommended. While the final version is yet to be produced, Policy BAF1 is generally consistent with the Framework and I give it significant weight.

¹ Brampton Abbots and Foy Neighbourhood Development Plan 2019-2031

Main Issue

5. The main issue of the proposed development is whether the site is a suitable location for housing, with particular regard to the local development strategy, proximity to services and reliance on private motor vehicles.

Reasons

6. The appeal site is part of a wider field adjacent to a public right of way (PROW) with a row of houses beyond that. The appeal site is raised up from the road with mature vegetation along the roadside boundary. Brampton Abbots is a dispersed settlement with several clusters of often linear development.
7. Policy RA1 of the Herefordshire Local Plan Core Strategy 2011-2031 (CS) relates to rural housing distribution. This and Policy RA2 of the CS set indicative minimum housing growth targets for areas, stating that these will be used as a basis for neighbourhood development plans. Outside of Hereford and market towns, Policy RA2 states that to maintain and strengthen locally sustainable communities sustainable housing growth will be supported in or adjacent to settlements. Neighbourhood development plans will allocate new housing or demonstrate delivery to provide levels of housing to meet targets.
8. Policy RA3 of the CS concerns locations outside of settlements, including those defined in neighbourhood development plans, and sets out exceptions where residential development would be permitted. The supporting text explains that the policy seeks to avoid unsustainable patterns of development in rural areas and avoid the provision of new isolated homes.
9. The main parties do not dispute that the site lies adjacent to the settlement and that it accords with that element of Policy RA2 of the CS. The settlement has several clusters of development and there is a row of properties across the PROW in close proximity to the site. The site is well related to existing housing and would follow the linear pattern of development characteristic of Brampton Abbots. As such, it would be adjacent to the settlement and it would not be isolated in the context of paragraph 79 of the Framework.
10. I acknowledge that the level of housing with permission and under construction within the draft NDP area, including that subject to a recent appeal², already exceeds the growth target for the area. Notwithstanding this, Policy RA2 of the CS and the draft NDP refer to minimum growth targets rather than an upper limit.
11. Furthermore, the Council have acknowledged that they are currently unable to demonstrate a 5-year supply of housing land. The current level of housing is 3.69 years, down from 4.05 years, and 4.55 years previously. From my site visit and the information before me, there is no compelling evidence that Brampton Abbots is being overwhelmed by development or that the appeal scheme would have a harmful impact on the community.
12. I acknowledge that public transport services serving the village are limited and the lack of pedestrian facilities and lighting would not be likely to encourage walking and cycling. Nonetheless, there are some services and facilities in Brampton Abbots, which is identified as a settlement in the CS suitable for some growth. In addition, the PROW that runs adjacent to the site connects it

² APP/W1850/W/19/3232124

to other parts of Brampton Abbots. Moreover, the site is located closer to services and facilities in the lower part of the settlement than some areas included within the draft NDP settlement boundary. Although there would be some reliance on private motor vehicles, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas (paragraph 103).

13. The proposal would bring some small social benefits in terms of housing supply, economic benefits from the construction and occupation of the dwelling, the New Homes Bonus as well as support for existing services and facilities. While the proposal would require the removal of some existing landscape features, it also provides an opportunity to enhance biodiversity.
14. Consequently, the site would be a suitable location for housing having regard to the local development strategy for the area, proximity to services and reliance on private motor vehicles. It would accord with Policy RA2 of the CS where it, in part, states that housing will be supported adjacent to the identified settlements.
15. The draft NDP sets settlement boundaries for the area. The site lies outside this and as such is contrary to Policy BAF1 of the draft NDP. The Examiners Report recommended modifications to the policy that the Council have accepted. However, the draft NDP is awaiting referendum and is yet to be made. Therefore, while a material consideration, it does not form part of the development plan at present. Given the scale of the proposal it would not undermine the plan-making process. As such, given my findings above, in the individual circumstances of the case before me, while the conflict with BAF1 attracts significant weight, this does not outweigh the scheme's compliance with the adopted development plan policy.

Appropriate Assessment

16. The appeal site is within the catchment area of the River Wye which is part of the River Wye Special Area of Conservation (SAC) and SSSI. The SAC is designated in accordance with the Habitats Directive as transposed in the UK by the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations).
17. I have had regard to the conservation objectives for the SAC which are to ensure that its integrity is maintained or restored as appropriate, and ensure that it contributes to achieving the favourable conservation status of its qualifying features, which include a range of aquatic flora and fauna.
18. It is not possible to rule out likely significant effects on the protected site through the potential impact from residential development such as the appeal scheme as foul and surface wastewater needs to be appropriately channelled and treated. There is potential that from improper discharge of wastewater it would contribute to changes in the nutrient levels within the SAC/SSSI, with particular regard to the levels of phosphorus. This would be likely to have an adverse effect on the integrity of the SAC/SSSI. As such, the proposal would be likely to have significant effects either alone, or in combination with other projects.
19. In these circumstances, the Habitats Regulations require that an Appropriate Assessment (AA) is carried out. The Habitats Regulations also indicate that

- permission may only be granted after having ascertained that a scheme will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the sites.
20. The proposal is not directly connected with or necessary for the management of the SAC. In order to avoid adverse effects on the integrity of the SAC appropriate mitigation needs to be secured.
21. The application was accompanied by an ecological assessment indicating that a foul water treatment plant and soakaway are proposed. The Council carried out its own AA during the application and Natural England were consulted at that stage. Natural England responded stating that they concur with the AA conclusions providing that all mitigation measures are appropriately secured in any permission given.
22. A planning condition would prevent commencement of any part of the development until the final design of the drainage system and a timetable for its implementation were submitted to and approved in writing by the Council.
23. The information before me indicates that the impact of the development could be mitigated by the imposition and adherence to this condition. This would avoid adverse effects on the integrity of the SAC/SSSI and therefore accord with the Habitats Regulations.

Other Matters

24. The introduction of 3 dwellings, access and associated facilities would inevitably alter the appearance of the site from public vantage points, including from nearby PROW's. Notwithstanding this, I saw that frequent breaks in the roadside vegetation for access points serving linear development were not uncommon. The scheme would mostly be seen with the existing housing at The Grove and, although there would be views across the field, the effects would be largely localised. The Council have not raised concerns with regard to the effect on the AONB. Given the above, I see no reason to reach a different finding.
25. While I note comments from nearby residents, the Council and Natural England have not raised concerns with or questioned the methods and results of the ecological assessment. Mitigation and additional planting to new boundaries are proposed. Further details would be provided at reserved matters stage. With a condition that would secure ecological enhancement measures, the overall effect of the proposal on biodiversity would be positive.
26. Concerns have been raised by third parties over highway safety and a traffic survey. Being for 3 dwellings, the proposal would not result in a significant increase in traffic movements in the area. The Transport Officer refers to there being less vehicle movements in front of the appeal site than elsewhere in Brampton Abbots. This concurs with my observations on site. While the removal of some roadside vegetation would be required, along with alterations to land levels, the evidence before me indicates that a satisfactory access, parking and visibility splays could be achieved.
27. Subject to conditions, the scheme would be able to provide appropriate drainage. There has been no compelling case to the contrary and no firm evidence that other infrastructure issues would arise from the scheme.

28. There is limited information before me regarding alternative sites in the area. Furthermore, I have considered the scheme on its individual planning merits against the planning policy considerations at this time and found it to be acceptable. Therefore, I see no reason why it would lead to unsuitable development in the future. There is no clear evidence that the scheme would adversely affect tourism or the local economy.

Conditions

29. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.
30. I have attached conditions relating to the submission of reserved matters and the time limits associated with this and commencement of the development. A condition referring to the location plan is included for clarity.
31. A condition is imposed in relation to a construction management plan in the interest of highway safety. To ensure appropriate drainage is provided there is a condition requiring a foul and surface water scheme to be submitted and agreed. Given these works are likely to relate to the early stages of the development, the details are required prior to its commencement.
32. Cycle storage is conditioned to facilitate sustainable transport options. To ensure energy efficiency a condition regarding water use is required. A further condition is imposed requiring details of biodiversity enhancement and lighting to prevent impacts on, and provide for, species and their habitats.
33. Conditions in relation to external materials, access gradient, turning areas, maximum ridge heights and landscaping are not necessary as all matters are reserved.

Conclusion

34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
35. I have found that the appeal scheme would accord with an up-to date development plan. Even when taken cumulatively, the other material considerations do not outweigh this.

Conclusion

36. I conclude that, for the reasons given above, and taking into account all matters raised, subject to the conditions in the schedule below, the appeal should be allowed.

Stuart Willis

INSPECTOR

Schedule of conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 743-PL10 insofar as it relates to site location plan 1:2500.
- 5) No development shall commence until details and location of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved:
 - A method for ensuring mud is not deposited onto the Public Highway;
 - Construction traffic access location; and
 - Parking for site operatives.

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

- 6) Prior to the first occupation of a dwelling hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage for that dwelling shall be submitted to the local planning authority for their written approval. The facilities shall be provided as agreed prior to the first occupation of the dwelling they serve and thereafter maintained.
- 7) Prior to the first occupation of a dwelling hereby permitted a scheme demonstrating measures for the efficient use of water shall be submitted to and approved in writing by the local planning authority. The measures shall be implemented as agreed and thereafter maintained.
- 8) No development shall commence until a scheme for the foul water discharge through connection to a new private foul water treatment system, and surface water drainage to SuDS or soakaway system, including a timetable for implementation, have been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented as agreed and thereafter maintained.
- 9) No development shall commence until a scheme of ecological protection, mitigation, compensation and working methods scheme, including the Biodiversity Enhancements, as recommended in the report by Willder Ecology, dated January 2020, including a timetable for implementation, has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented as agreed and thereafter maintained.

- 10) Prior to their use or installation, details of any external lighting shall be submitted to and approved in writing by the local planning authority. The lighting shall be installed in accordance with the approved details, and shall be maintained thereafter in accordance with these details.