



Appeal Decision

Site Visit made on 27 October 2020

by Mr A Spencer-Peet BSc.(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 03 November 2020

Appeal Ref: APP/D1265/W/20/3255970

**Land at Moreton Road, Owermoigne opposite no 19 Moreton Road,
Owermoigne, Nr Dorchester, DT2 8HT**

- 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 Mr D Chaltrey against the decision of Dorset Council.
 - The application Ref WD/D/19/000628, dated 20 February 2019, was refused by notice dated 24 February 2020.
 - The development proposed is Erection of 6.no dwellings (outline).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission with all matters reserved. Whilst not formally part of the proposed development, the details submitted with the application include an illustrative layout for the scheme.

Main Issues

3. The main issues are:
 - Whether the proposed development makes adequate provision for affordable housing and contributions in relation to the Dorset Heathlands and Poole Harbour Nutrient Catchment Zone;
 - The effect of the proposed development on biodiversity;
 - Whether the location of the site is suitable for residential development, with particular regard to the accessibility of services and facilities by means other than the private motor car;
 - The effect of the proposed development on the character and appearance of the surrounding area; and,
 - The effect of the proposed development on the setting of Listed Buildings.

Reasons

Planning Obligation

4. Policy HOUS1 of the West Dorset, Weymouth and Portland Local Plan 2015 (the Local Plan) provides that where open market housing is proposed, within West Dorset and Weymouth 35% Affordable Housing provision will be sought. In this

regard, Policy HOUS1 of the Local Plan does not provide a threshold below which no provision is required.

5. Paragraph 63 of the National Planning Policy Framework (the Framework) confirms that provision of affordable housing should not be sought for residential developments that are not considered to be major developments. However, this paragraph further provides that a lower threshold may be set within designated rural areas. The evidence before me confirms that, whilst the proposal would not constitute major development, the site is located within a designated rural area.
6. I find that Policy HOUS1 of the Local Plan is consistent with the Framework in that it acknowledges the viability of the development would be considered as part of the Council's decision making process. It would therefore appear that Policy HOUS1 of the Local Plan is being implemented in a manner that is mindful of the need to avoid affordable housing provision from becoming a disproportionate burden upon new developments. No evidence appears to have been submitted by the Appellant which demonstrates that the provision of affordable housing would render the proposed development unviable. Furthermore, the Appellant has indicated that it is their intention to provide an agreed planning obligation which would provide the necessary security and any necessary off site contributions.
7. In addition to the above, Natural England were consulted regarding the potential effect of the proposal on the Dorset Heathlands and Poole Harbour Nutrient Catchment Zone and concluded that contributions towards these sensitive environments was required. Whilst I acknowledge the Appellant's submissions, it is apparent that not all of the proposed units would be captured under the CIL Regulations and therefore contributions secured through a completed planning obligation would be required.
8. On the basis of the evidence submitted in relation to this appeal, I am satisfied that it has been demonstrated that the above contributions are reasonable and necessary. However, as at the date of my site visit, no planning obligation has been provided which would provide the necessary security and off-site contributions in relation to the agreed affordable housing provision or that would provide the necessary contributions towards the Dorset Heathlands and Poole Harbour Nutrient Catchment Zone. Whilst I acknowledge the submissions of the Appellant and their intentions to provide a suitable planning obligation, there is no acceptable mechanism before me that I can take account of to secure the necessary and appropriate contributions.
9. For the above reasons and in the absence of any completed planning obligation which would provide the necessary security and contributions, the proposal would conflict with Policies HOUS1 and ENV2 of the Local Plan which, amongst other things, requires that development provide adequate provision of affordable housing and secures effective mitigation against the potential adverse effects of development on the Dorset Heathlands and Poole Harbour Nutrient Catchment Zone.

Biodiversity

10. The evidence before me indicates that a Biodiversity Mitigation and Enhancement Plan has been completed and submitted to the Council by the Appellant. However, at the time of my site visit, no certificate of approval had

been provided which confirmed whether the proposal would avoid significant harm in terms of biodiversity or that, in the case of harm being identified, whether the proposal would provide suitable mitigation.

11. Consequently, I am not able to conclude that there would not be any adverse impact on biodiversity at the site and in the absence of evidence to the contrary, the appeal scheme would conflict with Policy ENV2 of the Local Plan which, amongst other matters, confirms that proposals that conserve or enhance biodiversity should be supported. For the same reasons, the proposal would not accord with the provisions of paragraphs 174 and 175 of the Framework which confirms that proposals should be refused if significant harm to biodiversity cannot be avoided or mitigated.

Location of Development

12. Policy SUS2 of the Local Plan provides that development is to be directed towards the larger and more sustainable settlements. Within rural areas, development is directed to the settlements with Defined Development Boundaries (the DDB) where development at an appropriate scale to the size of the settlement is acceptable. Policy SUS2 of the Local Plan further provides that, outside of the DDB, development will be strictly controlled, having particular regard to the need for the protection of the countryside and environmental constraints, and limited to certain forms of development. As noted above, without any mechanism that secures affordable housing at the site, the proposal is for open market dwellings.
13. The evidence before me indicates that Owermoigne does not have a DDB and as the proposal does not accord with any of the exceptions to development outside the DDB, the appeal scheme would conflict with Policy SUS2 of the Local Plan. However, Policy SUS2 of the Local Plan restricts housing outside of the DDB and it is noted that the Council is currently unable to demonstrate a five year housing land supply. As a consequence of the lack of a five year housing land supply, Policy SUS2 of the Local Plan is considered to be out-of-date.
14. In this regard, whilst Policy SUS2 is considered to be out-of- date and therefore does not attract full weight in the determination of this appeal, I consider that the policy does still attract significant weight given that it directs development to those locations which are considered to be sustainable and is consistent with the Framework in terms of seeking to protect the countryside from unnecessary development.
15. The appeal site is located at the edge of Owermoigne. The village provides only a limited amount of services and facilities, including bus stops and access to a petrol station shop and farm shop that are located on the A352 highway. However, access to these services and the wider transport links provided by the bus stops, would require future occupants to travel along stretches of unlit highways which do not benefit from public footways. It cannot therefore be said that access on foot or bicycle to the facilities and services Owermoigne does contain would be accessible to all, and particularly in the winter and during adverse weather conditions.
16. Accordingly, in light of the above factors, I conclude that it is therefore likely that future occupants of the proposed dwellings would be heavily reliant on private motor vehicles. Whilst dependence on private vehicles may be expected

in a rural location such as this, the proposal would only exacerbate this level of reliance. It would contribute to a pattern of development that would cause environmental harm as a result of increased car journeys and hence carbon emissions.

17. The evidence before me confirms that the appeal site has not been identified for development within the 2019 Strategic Housing Land Availability Assessment. Whilst I acknowledge the submissions of the Appellant with regards to the conclusions that settlements with similar populations have been considered to be sustainable, this appeal has been determined on its own merits.
18. For the above reasons, the appeal scheme would not be in a suitable location for residential development and the proposal would conflict with Policy SUS2 of the Local Plan. Given that the appeal site is not suitably located with regards to access to services and that future occupants of the scheme would be likely to be heavily reliant on private motor vehicles to access basic services such as a shop, school or healthcare facilities, the scheme would not accord with the environmental dimension of sustainable development and, therefore, would also conflict with Policy INT1 of the Local Plan which concerns sustainable development. Furthermore, and for the same reasons, the appeal proposal would fail to accord with paragraphs 78 and 103 of the Framework.

Character and Appearance

19. The appeal site comprises land which, in part, separates the built form of Owermoigne from the outlying development at Owermoigne Court. While the appeal site is screened from the adjacent highway by hedgerow, it is nonetheless visible through the gateway which currently provides access to the site from the highway. Given that the site is outside of the built form of the village and by reason of its predominately open nature and enclosing hedge features, the appeal site relates more closely to the countryside than it does the built form of Owermoigne. In this regard, the site makes a positive contribution to the character and appearance of the countryside outside of the village.
20. Whilst it is noted that the proposal is in outline and that matters such as design and layout are to be reserved for later consideration, in my view the appeal scheme would urbanise the site to the detriment of its rural qualities. Given that the appeal site is located outside of but adjacent to the periphery of Owermoigne, the proposal would be at odds with the existing pattern of development and would be seen as a harmful encroachment into the countryside. It is noted that there is evidence which indicates that the site was previously developed. However, at the time of my visit, no evidence of any structures could be seen at the site and in visual terms the site appeared as an agricultural field which contributed positively to the rural character and appearance of the area.
21. In light of the above, the proposal would represent an unsympathetic encroachment into the countryside and would significantly adversely affect the character of the surrounding landscape and the rural setting of the site. Consequently, the appeal scheme would conflict with Policy EN1 of the Local Plan which, amongst other things, confirms that development that significantly adversely affects the character or visual quality of the local landscape will not be permitted.

Heritage Assets

22. The appeal site is located adjacent to the listed buildings at 12 and 14 Moreton Road, which the Historic England listing description describes as being a pair of early seventeenth century cottages predominately constructed in rubblestone walls with brick dressings and thatched roofs.
23. Under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have a duty to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest. Paragraph 193 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting. Policy ENV4 of the Local Plan seeks to protect designated heritage assets in line with the provisions of the Framework.
24. While I acknowledge the Appellant's submissions, given the location of the listed buildings adjoining the appeal site, it is apparent that both the proposal and the listed buildings would be visible from the adjacent highway. Whilst the proposal is in outline, given the quantum of development, the scheme would have an urbanising effect which would not be in keeping with this edge of village location, adversely affecting the setting of the adjacent listed buildings. Furthermore, and by reason of the quantum of proposed development, it is apparent that some of the proposed units would be set back significantly from the highway and this would, in my view, have an enclosing effect on the setting of the identified listed buildings.
25. In terms of the Framework, I conclude that the proposal would lead to less than substantial harm to the heritage assets and, accordingly, this harm should be weighed against the public benefits of the scheme in line with paragraph 196 of the Framework.
26. As noted above, as there is no mechanism before me which adequately secures the provision of affordable housing, the proposal must be considered to comprise open market dwellings. There would be a public benefit in these open market dwellings contributing to local housing supply, but the number of homes proposed would be modest and this benefit is of modest weight. The proposal would be of economic benefit in creating employment during the construction phase. The scope of this benefit would be limited by the scale of development.
27. I give great weight to the identified harm to the setting of the heritage assets in accordance with the Framework. The modest weight that I give to the benefits are not sufficient to outweigh that great weight. The proposal would therefore conflict with Policy ENV4 of the Local Plan and would fail to accord with those paragraphs of the Framework which concern conserving and enhancing the historic environment.

Planning Balance and Conclusion

28. The appeal scheme would boost the supply of open market housing in the area at a time when the evidence before me indicates that the Council cannot demonstrate a deliverable five year supply of housing sites. However, the contribution towards housing supply from six dwellings would not be substantial. There would be some economic benefits associated with the development of the site in terms of employment opportunities during the

construction phase and through future occupants spend within local businesses, although again such benefits would be quite limited by reason of the scale of proposed development.

29. Weighed against the above is my conclusion that harm, albeit less than substantial harm, would be caused to the setting of the identified listed buildings. This is a matter to which I afford great weight in accordance with the provisions of the Framework. Furthermore, the evidence has led me to conclude that the erection of six dwellings on the site would not be acceptable in principle, as the proposed units would not be suitably located with regards to services and facilities and that significant harm would be caused to the character and appearance of the area. These adverse impacts would significantly and demonstrably outweigh the aforementioned benefits.
30. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR