
Appeal Decision

Site visit made on 20 October 2020

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2020

Appeal Ref: APP/K2420/W/20/3256614

Land South of Bonita, Bullfurlong Lane, Burbage, Hinckley LE10 2HQ

- 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 David Coley against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 19/01404/OUT, dated 16 December 2019, was refused by notice dated 11 February 2019.
 - The development proposed is 'a residential development of 5 No. dwellings with vehicular access'
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Decision

1. The appeal is allowed and planning permission is granted for a residential development of 5 No. dwellings with vehicular access at Land South of Bonita, Bullfurlong Lane, Burbage, Hinckley LE10 2HQ in accordance with the terms of application, 19/01404/OUT, dated 16 December 2019 subject to the Schedule of Conditions at the end of this decision.

Procedural Matters

2. Outline planning permission is applied for with details of access, layout and scale considered at this stage. Appearance and landscaping are reserved matters for subsequent approval. Therefore, I have dealt with the appeal plans on that basis where any additional indicative information is shown.
3. I note the emerging Burbage Neighbourhood Plan has been examined and that a referendum after May 2021 is expected. The document therefore carries significant weight.

Background and Main Issue

4. The Council's reasons for refusal specified within the Decision Notice relate to the level of landscape harm arising from encroachment into the open countryside, as well as the form of the development not complimenting the prevailing pattern of other development in the surrounding area. I shall deal with both points collectively in my reasoning.
5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site is a field which lies beyond, but also on the edge of, the existing settlement pattern of Burbage. The site contains a number of

outbuildings close to the highway boundary but otherwise has the characteristics of being part of the wider open countryside wrapping around the settlement area. Considered in a wider network of fields it provides a predominantly open, green and rural setting to existing dwellings within the settlement area which primarily have an urban character.

7. I acknowledge that the development of the site would result in a physical encroachment into the open countryside wrapping around Burbage. The appellant's Landscape and Visual Impact Assessment makes the case that the development will not have a significant impact. This is on the basis that existing taller urban features such as roofs and chimneys would be replicated and also because the establishment of new boundary plantings would prevent direct long-distance views of the development.
8. I accept from wider vantages toward Burbage and the appeal site the proposed scheme would ultimately be seen in the context of existing properties forming the settlement. Large expanses of open greenery would remain and the level of encroachment in that context, would not appear severe. It is also the case that the resultant level of change would not be prominent from longer distance views possible from the M69. In that regard visible parts of the scheme from surrounding public vantages toward the settlement boundary would be able to be successfully screened by plantings. In this context there would be no material harm to the setting of the settlement or the open landscape beyond it.
9. Nevertheless, even without boundary treatments I also accept that the development would be seen in the context of other existing dwellings and therefore would not be incongruous. The level of encroachment is of a moderate scale utilising a site which already has some buildings erected on it. Therefore, there would not be any material adverse wider landscape harm.
10. Closer views of the appeal site would be possible from points along the part of the highway at the edge of the settlement boundary opposite the site. But factoring in the building form of other nearby properties there is nothing shown within the site layout which suggests that the physical appearance of the development would be harmful to local character. The appeal site would be served by a small internal access road which would be discretely positioned at the turning head within Bullfurlong Lane next to where the settlement boundary ends. Whilst the appeal scheme would not replicate the linear pattern of development present along Bullfurlong Lane it would still respect the existing layout of the area because of its discrete position relative to other properties lining the end of the cul-de-sac.
11. Although 'appearance' is not a matter before me the layout and number of units anticipated would integrate well with the existing form and character of surrounding dwellings. I also acknowledge that the sites redevelopment would provide a visual benefit through the removal of the outbuildings presently situated on it close to the highway.
12. I therefore find that the development would not harm the character and appearance of the area. The development does conflict with some aspects of Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (DPD) (2016) as it does not fall into any of the categories defined as sustainable development. But the conflict is minor given the development would be seen close to an existing village without causing significant visual harm. It also complies with the aims of

Policies 1 and 2 of the emerging Burbage Neighbourhood Plan which require that the character of settlements to be respected in line with the policies of the DPD.

Other Matters

13. It is accepted by both parties that the Council did not have a 5-year housing land supply when the application was determined. However, since the notification of the appeal the Council have stated that from 1 April 2020 there was a supply of 5.15 years. In those circumstances I do not consider that paragraph 11d is engaged. This is because the most relevant policies to the appeal concern character and appearance matters which are the most important for determining the appeal. But even if I had considered that 11d were to be engaged I have not identified any harm to the character and appearance of the area arising from the proposal which would significantly and demonstrably outweigh the benefits as set out below.
14. Moreover, Burbage is recognised by the Council's development plan as being part of the higher order settlement with good levels of service provision. It benefits from a wide range of services and facilities which occupants could enjoy without the need to travel long distances. There is also access to higher levels of services further afield within the urban area. The appeal site would contribute positively to housing provision supply within the Borough which should not be seen as a maximum.
15. There are objections to the appeal proposal from third parties covering a range of points such as, but not limited to: over-development of the village, loss of greenfield land and recreation space; smaller corridors left for wildlife; strain on local infrastructure and services; overcrowding and traffic problems. However, the points go beyond the specific reasons for refusal within the Council's Decision Notice leading to the appeal. There is no substantive evidence to support that the issues raised should alter the balance of my conclusion either collectively or individually.

Planning Balance, Conditions and Conclusion

16. There is some conflict with the Development Plan but the conflict is outweighed by the relative lack of harm to the local landscape and the benefits which would accrue from this proposal by reason of the provision of housing and the removal of the present outbuildings on the site. As such a decision other than in accordance with the development plan is justified.
17. The Council have provided a list of suggested conditions. Subject to minor modification conditions specifying the time limit, plans and reserved matters are necessary and defined in the Development Management Procedural Order as required. A condition seeking the approval of material samples is not necessary as that can be dealt with at reserved matters stage which will ensure the visual appearance of the development is high quality.
18. A condition requiring any land contamination risks are sufficiently dealt with is necessary to safeguard against risks to human health and to ensure any mitigation required can be secured. Suggested highways conditions regarding access, parking and turning are required to protect public safety. Conditions for surface water and foul drainage details are also required in the interests of

safeguarding against localised flooding and to protect against water and soil contamination problems.

19. A condition requiring level information is not necessary as the site is largely flat and reserved matters would confirm the appearance of the development.

20. For the reasons given above the appeal succeeds.

Matthew Shrigley

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above condition relating to the:- a) Appearance of the development b) Landscaping of the site including details of boundary planting to reinforce the existing landscaping at the site edges have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application plans, as follows: Site location and block plan ref no. 4213/2019/01 Rev A; Site constraints and opportunities plan ref no 4213/2019/02; Site layout ref no. 4213/2019/04 Rev B.
- 4) No development shall commence on the site until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the local planning authority which shall include details of how any contamination shall be dealt with. The approved scheme shall then be implemented in full accordance with the agreed details and any remediation works so approved shall be carried out prior to the first dwellinghouse being occupied.
- 5) The new vehicular access hereby permitted shall not be used for a period of more than one month from being first brought into use unless any existing vehicular access on Bullfurlong Lane that becomes redundant as a result of this proposal has been closed permanently and reinstated in accordance with details first submitted to and agreed in writing by the Local Planning Authority.
- 6) The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with GBa&e drawing number 4213/2019/04 Rev B. Thereafter the approved onsite parking provision shall be retained for as long as the development remains in use.
- 7) The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with

tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 10 metres behind the highway boundary and, once provided, shall be so maintained and retained as such for as long as the development remains in use.

- 8) No development shall commence until drainage details for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented in full before the development is first occupied.