



Appeal Decision

Site visit made on 30 September 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2020

Appeal Ref: APP/K2420/W/20/3254458

Land off Hall Lane, Land Adjacent to Ivy Farm Farmhouse, Odstone, Leicestershire CV13 0QS

- 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 Mrs Jenny Longwill against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 19/01234/OUT, dated 26 October 2019, was refused by notice dated 23 December 2019.
 - The development proposed is the erection of two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal proposal was submitted as an outline planning application with all matters reserved except for access. An illustrative layout has been submitted to demonstrate that the proposed development can be achieved on-site. The indicative plan helps clarify the proposals for access but, in all other respects, I have given it no weight since the other matters are reserved.

Main Issue

3. The main issue concerns the effect on the character and appearance of the area having regard to whether or not the appeal proposal lies within a suitable location for the proposed development.

Reasons

4. The settlement hierarchy for Hinckley and Bosworth District is established in the Core Strategy (2009) (CS). Odstone is regarded as a rural hamlet within the hierarchy and, as such, is covered by CS Policy 13. This policy envisages that the only permissible growth in rural hamlets would be small scale on land within defined settlement boundaries.
5. The Policies Map identifies the settlement boundary for Odstone. The appeal site lies adjacent to but beyond the settlement boundary. It is currently scrub land and the adjacent site to the north east is used as a paddock. While the appellant suggests that the appeal site lies within the natural grain and shape of the settlement, the nature of the land adjacent to Hall Lane is such that a similar case could be formulated for other parcels of land, not least the aforementioned paddock. Therefore, the appeal site lies within the countryside

possessing an intrinsic value, beauty, open character and landscape character. New housing development is generally restricted in the countryside except in very specific circumstances such as the provision of homes for rural workers.

6. The importance of the settlement hierarchy is that it helps steer growth towards more suitable and sustainable locations for development, with particular regard to a choice of transport modes and the availability of local services and facilities. Although the appeal site is not isolated because it lies adjacent to a number of existing properties and, within a short distance of further housing but, that does not take away the fact that Odstone is a small settlement with a very limited range of everyday services and facilities. Public transport is only accessible from nearby villages. This means that the residents of any new housing would almost certainly be reliant on the use of private motor vehicles in order to access goods, services and facilities located elsewhere.
7. My attention has been drawn to several other appeal and planning decisions. Appeal Ref APP/K2420/W/19/3222850 was for 25 dwellings adjacent to Barwell which one of the District's main urban areas. Appeal Ref APP/K2420/A/12/2168670 was a proposal for a single dwelling in 2012 which was considered under a different development plan regime. I do not have access to the details relating to both appeals but note the circumstances are significantly different to the current appeal which I have determined on its merits. Planning permission was granted for a scheme of up to 80 dwellings on a site at Desford (19/00149/OUT) which I understand is designated as a Key Rural Centre in the settlement hierarchy. Therefore, this does not appear to be directly comparable to the appeal site.
8. The appellant also refers extensively to a scheme in Essex subject to the Braintree DC v SSCLG [2018] EWCA Civ. 610 judgement regarding the meaning of the word isolated which I refer to above. However, the site in question was previously developed and subject to a different development plan context.
9. The appellant has highlighted a number of attributes of the appeal scheme under economic (including construction), social (support for services in nearby settlements) and environmental (including retention of ecological assets on-site, the poor quality of the land for agriculture, design with an agricultural DNA) strands in order to claim it would represent a sustainable development. However, those benefits would not be sufficient to overcome the shortcomings of the location of the appeal site through the lack of transport choices and poor access to local services and facilities.
10. Moving on to the likely effects of the appeal proposal on the character and appearance of the area, I would accept that the site is generally well-screened, particularly from Halls Lane because of the established hedgerow that would be retained. However, it appears to me that a similar argument could apply to other plots of land fronting onto Halls Lane. This is because the rural landscape in this locality is not open and exposed. However, unlike the appellant, who sees this as an opportunity to accommodate development on the appeal site, I take the opposing view. This is because the hidden or substantially restricted views and the resultant enclosure provide the essence to the attractiveness of the rural character of the area. Development of the appeal site would have an

urbanising effect although I recognise that good quality design that the appellants could provide some mitigation.

11. At present, the appeal site itself is not being positively used and is overgrown. However, this does not have to be the case as the adjacent paddock area illustrates. I do not, therefore, find that the currently unused nature of the site provides a compelling case in support of its development.
12. Accordingly, I find that the appeal site is located within the countryside and its development would result in the provision of 2 new dwellings in an unsustainable location which would have a harmful impact on the rural character and appearance of the area. As such, the appeal scheme conflicts with Policies DM1, DM4 and DM10 of the Site Allocations and Development Management Policies DPD (2016) (SADMP). Policy DM1 sets out the presumption in favour of sustainable development consistent with the Government's intention in the National Planning Policy Framework (the Framework). Policy DM4 seeks to safeguard the countryside by protecting its intrinsic value, beauty, open character and landscape character, and to safeguard it from unsustainable development. Policy DM10 seeks to ensure that development complements or enhances the character of the surrounding area with the intention of preventing development that is out of keeping with the character of the surrounding area. I am satisfied that these 3 policies remain broadly consistent and up to date with the Framework and, as such, carry significant weight in the determination of this appeal.

Other Matters

Heritage

13. The appeal site lies close to Ivy House Farmhouse which is a Grade II Listed Building and, as such is a recognised designated heritage asset. S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting the decision-maker shall have special regard to the desirability of preserving the building or its setting.
14. Section 16, paragraph 193 of the Framework states, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
15. Ivy House Farmhouse is a red brick 2 storey farmhouse with a hipped roof dating back to the early to mid C18. The proposed development would retain mature landscaping within the appeal site boundary to Hall Lane which is important as part of the approach to the farmhouse. The proposed dwellings would be separated from the appeal site by means of the access track as well as a line of mature trees. As a result, there would be little discernible impact to the setting of the Grade II Listed Ivy House Farmhouse.
16. Accordingly, having regard to the statutory test, I find that the proposed development would not have a harmful effect on the setting of Ivy House, Farmhouse a Grade 2 Listed Building. As such, the appeal proposal complies with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF. Policies DM11 and DM12 seek to protect and enhance the historic environment.

Housing land supply

17. The appellant's statement of case argues that the Council is unable to demonstrate a 5 year housing land supply (5YHLS) and, therefore, that paragraph 11d) of the Framework should be engaged. At the time the planning application was determined the Council accepted that it was not able to identify a 5YHLS.
18. However, the Council recently published its latest Residential Land Availability Monitoring Statement for 1 April 2019 - 31 March 2020. This report includes a significant increase in supply compared the previous version and, using the Government's standard method, a 5.15 years supply can be identified. This report confirms that small windfall sites would contribute to meeting that supply (146 dwellings out of a total supply of 2,445 dwellings). However, it is reasonable to anticipate that the windfall capacity would come forward in sustainable locations consistent with the policies set out in the development plan.
19. In final comments, the appellant recognises this latest assessment but continues to cast doubt on the housing land supply, noting this does not take account of a housing shortfall in Leicester and the significantly higher housing requirement for the District as assessed under the Government's recent consultation on a possible revision to the standard method. However, these are matters that are not before me at this appeal.
20. While the position regarding the 5YHLS might change in future, the position at the point of determination of this appeal is that, using the Government's standard method, a 5 year supply has been demonstrated by the Council and, as a result, paragraph 11d) of the Government's National Planning Policy Framework is not engaged in respect of the supply of housing land.

Technical considerations

21. The Highways Authority has assessed the appeal proposal and raises no objection in principle, concluding that the cumulative impacts from the development of 2 new dwellings on the site would be acceptable subject to appropriate conditions. Similarly, there are no objections on archaeology, ecology, waste and pollution subject to appropriate conditions. I have no reason to disagree in respect of these technical matters. However, these technical considerations would not out-weigh the objection in principle to development of this land I have identified above.

Conclusion

22. Notwithstanding the current position on the 5YHLS the Council continue to recognise that the housing policies in the development plan are out of date. However, the proposal would conflict with Policies DM1, DM4 and DM10 of the SADMP. I have found that these policies remain consistent with the Framework and therefore carry significant weight. Therefore, the proposed development would not lead to a sustainable development and other material considerations would not justify making a decision except in accordance with the development plan.

23. For the reasons given above and, taking account of all the matters raised, I conclude the appeal should be dismissed.

David Carter

INSPECTOR