



Appeal Decision

Site Visit made on 12 January 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 22 January 2021

Appeal Ref: APP/F3545/W/20/3258885

Land South Of Bury Road, Kentford, CB8 7PZ

- 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 M Bartram and Heritage Developments Ltd against the decision of West Suffolk Council.
 - The application Ref DC/17/2474/OUT, dated 9 May 2019, was refused by notice dated 9 March 2020.
 - The development proposed is outline application for the erection of up to 19 affordable dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was for outline permission with landscaping and layout reserved for determination at a later date. Drawings showing landscaping and layout have been submitted with the application. For the purpose of this appeal I have taken the details shown on these drawings as indicative only. I have determined the appeal on this basis.

Main Issues

3. The main issues are: -
 - The effect of the proposal on the character and appearance of the site and the surrounding area with particular reference to trees;
 - Whether the site is a suitable location for 19 new dwellings, having regard to local policy for the delivery of housing; and
 - Whether the proposal makes adequate provision for infrastructure and services.

Reasons

Character and appearance

4. The site is located on the eastern edge of Kentford, and fronts onto Bury Road (B1506). The site lies amongst open arable fields interspersed with trees, woodland and hedges and this affords the area a generally rural character despite the presence of the A14. To the west of the site lies a detached dwelling, known as Flint House beyond which lies the discernible built-up area

of Kentford. Further out along Bury Road the land passes through open countryside with only sporadic development.

5. At this point Bury Road is subject to a 40MPH speed limit, is unlit and has a footway and a layby on the opposite side of the road from the site. A gateway feature incorporating signage indicating the start of a 30MPH speed limit lies towards the western end of the site, close to Flint House and anticipating the start of denser development. Beyond this street lighting commences.
6. The appeal site sits clearly outside of the village and in the countryside and there is a clear division between the two as logically defined by the settlement boundary. Being undeveloped and verdant in appearance the appeal site reads as part of the countryside.
7. The site contains numerous trees, predominantly Scots Pine, which are protected under a Tree Protection Order¹ and the appellants submitted a Landscape and Visual Issues Technical Note (LVITN) and an Arboricultural Implications Assessment and Preliminary Method Statement (AIA) to accompany the proposal.
8. The LVITN and AIA identifies that the land lies at the edge of the Brecks Landscape and contains a mix of trees. In addition to the Scots Pines which typify the Brecks Landscape there were also ash, sycamore and elm. The AIA identified that a proportion of the trees, principally of the species less typical of the Breck Landscape, but including some of the Scots Pines, were in a poor condition. Whilst the LVITN identified that the site lies within an area of transitional landscape where the features of the Brecks Landscape become less marked, the Scots Pines are very prominent within the site and define its character strongly as part of the Brecks Landscape.
9. The planting within the site has already been the subject of management and the site cleared of extraneous undergrowth. Whilst it appears more open when compared to the denser growth within the plantation to the east of the site the trees nevertheless reinforce the rural, verdant character of the site.
10. The proposal would introduce nineteen dwellings into the site and remove a number of the trees. Notwithstanding that the proposal is in outline form, the composition of the development would result in a dense urban form, incorporating paved accessways, hardstanding for parking and other residential paraphernalia associated with occupancy. This would harmfully jar with the rural character of the site and its immediate environs.
11. The proposal incorporates a play area within the site. Whilst this would soften the eastern side of the site, the planting within it would, together with the residential uses within the site, be likely to engender concerns amongst future occupiers and users of the site regarding structural impact upon property, and nuisance and danger from limb, leaf and needle drop from such large mature trees. This would be likely to result in pressure to remove or reduce the trees.
12. Highway works to form two vehicular accesses are proposed and, although the existing road narrowing at the gateway feature would be retained, the gateway itself would be relocated further east and "rumble" strips and road markings would be applied to the carriageway across the site frontage. A new footway would be provided on the same side of Bury Road as the appeal site. Together,

¹ Council Ref: TPO2013/1

these works would give the road an increased urban appearance and reinforce the perception that the development is sprawling into the countryside.

13. Overall the proposal would urbanise the character and appearance of the site and this increased urbanisation, together with the reduction in verdancy of the site resultant from the loss of trees, with the potential for further loss in the future, would significantly harm the rural character and appearance of the site and the surrounding area.
14. The appellants propose replacement trees to offset the loss of those on site which would be removed and the development would provide continued tree management, including the replacement of trees with a limited future. However, such planting would take time to establish itself and, given the likely issues of concern to future residents, may not be welcomed or deliverable. There is dispute between the Council's officers and the findings of the AIA and LVITN that, given the scale of works likely within the site and amount of hardened landscaping and buildings, additional planting would be successful. Further, there is no evidence before me to demonstrate that planting would successfully address the harmfully visible urban nature of the proposal, which would remain apparent to passers-by on Bury Road and the A14.
15. Whilst the site trees would be managed, this would emphasise the change of the site from its rural nature towards urbanity by producing a formal, parkland form, replacing the strongly rural one. Nor is less rigorously managed planting necessarily at odds with a rural landscape and so I give limited weight to this argument.
16. I therefore conclude that the proposal would result in significant harm to the character and appearance of the site and the surrounding area. The proposal would therefore be contrary to Policies DM2, DM5, DM13 and DN22 of the West Suffolk Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document -2015- (the DMPD) and Policy CS5 of the Forest Heath Local Development Framework Core Strategy Development Plan Document 2001-2026 (with housing projected to 2031) -2010- (the Core Strategy). Together these policies seek to ensure that all development, amongst other things, protects the character and visual amenity of the landscape and recognises and addresses the key features, characteristics, landscape character, local distinctiveness and special qualities of the area.

Suitable location for dwellings

17. The Core Strategy sets out a spatial strategy which seeks to locate development, including housing, in locations with access to goods and services whilst protecting the natural environment from inappropriate development. Kentford is identified in Policy CS1 of the Core Strategy as a primary village where basic services within the settlement allow for limited housing growth. However, the site lies outside of the identified settlement boundary. It is therefore in the countryside for planning purposes where development will only be permitted subject to the exceptions set out in the Council's countryside policies.
18. Policy DM5 of the DMPD and Policy CS9 of the Core Strategy provide such an exception for affordable housing. Such provision would only be acceptable subject to the proposed scheme meeting a demonstrated local need. Further

the housing would need to be retained, and made available at an affordable cost, to those with a local need for the life of the property.

19. The intent of the proposal is to provide 19 new affordable dwellings, provided through a registered provider. There is agreement between the main parties that there is a local need for such housing and the evidence before me supports this. The proposal could, therefore, gain support from Policy DM5 of the DMPD and Policy CS9 of the Core Strategy if secured as affordable housing. The parties agree that this should be through a planning obligation, and I see no reason to disagree given the legal certainty that this would give.
20. However, no legal agreement has been provided with this appeal. I am mindful of the advice provided in the Planning Practice Guidance² regarding that the use of planning obligations and negatively worded conditions.
21. I have no clear evidence before me that the development would be at significant risk and so the exceptional circumstances whereby a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence do not exist. In the absence of a legal agreement it has not been demonstrated that the site could be secured as affordable housing.
22. I therefore conclude that the proposal would not be an appropriate location for the appeal scheme when having regard to the spatial strategy in the development plan because it would be contrary to Policy DM5 of the DMPD and Policy CS9 of the Core Strategy.

Provision of infrastructure

23. The dwellings within the proposed development would include family homes. As such future occupiers of the dwellings would likely produce a need for services, such as education.
24. Suffolk County Council has advised a shortfall of pre-school, primary and secondary school places to accommodate occupants of this development and as such has requested a total contribution of £221,184 to spend on enhancing and improving this provision. In addition, a fee for the enhancement of local libraries is requested at £16 per dwelling. The main parties agree that these requests are reasonable, directly related to the development and necessary in order to make the development acceptable in planning terms and I have no reason, based on the evidence before me, to disagree with this view.
25. Such contributions would normally be secured through the means of a legal agreement, and the parties agree that this should be through a planning obligation, and I see no reason to disagree given the legal certainty that this would give.
26. No document to make such provision accompanied this appeal. Further, I have no clear evidence before me that the development would be at serious risk and so the exceptional circumstances whereby a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence do not exist. In the absence of a means of securing provision of appropriate mitigation the additional burdens imposed

² PPG ID: 21a-010-20190723

upon infrastructure and services by the development would not be mitigated by the proposal.

27. I therefore conclude that the proposal does not make adequate provision for infrastructure and services and would, therefore, be contrary to Policy CS13 of the Core Strategy in as much as this requires that development should make suitable arrangements to improve infrastructure, services, and community facilities, where necessary, to mitigate the impact of development.

Other Matters

28. Given my overall conclusion that the appeal should fail, there would be no effect on any European Site/Special Protection Area and therefore it is unnecessary to consider this matter further.
29. The DMPD and Core Strategy pre-dates the National Planning Policy Framework -2019- (the Framework) and so policies within it should be assessed and given weight in terms of their consistency with the aims of the Framework. The Framework does not impose a blanket restriction on development outside defined settlements, nor does it explicitly prevent the use of such boundaries.
30. The appeal site is located in close proximity to existing dwellings and is not isolated and so the countryside location does not conflict with paragraph 79 of the Framework. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.
31. The Framework recognises that sustainable transport solutions will vary between urban and rural areas and that rural housing development in smaller settlements can enhance or maintain the vitality of rural communities. The appeal site lies on the outskirts of a settlement with basic services, identified as being suitable for limited housing growth. Thus the proposal would contribute to the vitality of the village.
32. However, the Framework also recognises, in Paragraphs 127 and 170, the importance of being sympathetic to local character, including landscape setting, and of recognising the intrinsic character and beauty of the countryside. The Framework seeks to balance these aims with housing growth.
33. The policies in the Core Strategy and DMPD that are most important in this case (Policies DM2, DM5, DM13 and DN22 of the DMPD and Policies CS5, CS9 and CS13 of the Core Strategy) are broadly consistent with the aims and policies set out in Sections 5, 9, 12 and 15 of the Framework and, therefore, are not out-of-date.
34. The development would provide benefits in terms of delivering an additional 19 homes in a sustainable location to boost housing supply. Whilst it is intended that these would be affordable homes, I have found that no means has been provided of securing this. The number of homes would provide a moderate benefit, given the Government's aim of significantly increasing the delivery of housing. There would be minor benefits to the local economy in terms of short term employment in the construction industry and longer term support to local shops and businesses. Taken together these benefits carry moderate weight.

35. However, the harm from a conflict with the spatial strategy and from a failure to make adequate provision for infrastructure would, together, be significant factors weighing against the scheme.

36. In conclusion the moderate benefits provided by the proposal would be outweighed by the identified harm when considered against development plan policies and the Framework when read as a whole.

Conclusion

37. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I Dyer

INSPECTOR