

Appeal Decision

Site visit made on 11 November 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Appeal Ref: APP/D1265/W/20/3257330

Pleydells Farm, Higher Street, Okeford Fitzpaine, Dorset DT11 0RQ

- 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 P&J Okeford Fitzpaine and Mr C Norton against Dorset Council.
 - The application Ref 2/2019/1091/OUT, is dated 31 July 2019.
 - The development proposed is the demolition of existing buildings and construction of 48 homes with associated parking, access and landscaping.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matters

2. At my visit I observed that many of the agricultural buildings at the site have now been demolished. In the interests of certainty, I made my assessment against the description of the proposed development and the plans before me.
3. The planning application was submitted in outline with all matters aside from access reserved. I assessed the appeal proposal as such, referring to the site layout plan Ref 5842-WLA-A-0111 for illustrative purposes only, except where it relates to the access.
4. During the appeal the appellants provided a completed Unilateral Undertaking (UU). The UU would secure the provision of onsite affordable housing (AH) and public open space, a footpath and other financial contributions. I return to the UU later in my decision.
5. On 19 January 2021 the Housing Delivery Test results were published. The main parties were given the opportunity to comment on the results and I had regard to this matter in my decision.
6. The Council failed to give notice of its decision within the prescribed period. Nonetheless, five 'main issues' are set out within its appeal statement. The last of these, which relates to highway safety, was resolved between the main parties during the appeal.
7. At the final comments stage the appellants provided an updated Ecological Assessment and Biodiversity Mitigation and Enhancement Plan (EABMEP). The content of the EABMEP and the subsequent evidence provided by the main parties also necessitated the consideration of biodiversity, with reference to protected species, as a main issue.

Main Issues

8. On the basis of this evidence, I consider the main issues to be:

- the effect of the proposal on biodiversity, with reference to protected species;
- the suitability of the site for the proposed development, having regard to the development plan's spatial strategy for the supply of housing;
- the effect of the proposal on the character and appearance of the area, with reference to the setting of the Dorset Area of Outstanding Natural Beauty (the AONB); and,
- the effect of the proposal on designated heritage assets, with reference to the Okeford Fitzpaine Conservation Area (the CA), and the setting of Grade II listed buildings within Lower Street¹ and Higher Street².

Reasons

Biodiversity

9. The site comprises a former farmyard and improved grassland at the edge of the settlement of Okeford Fitzpaine. The area of former farmyard has extant permission for 27 homes (the Extant Permission)³. The proposal would effectively replicate this and extend residential development of 21 homes into the adjacent grassland.
10. Paragraph 170 of the National Planning Policy Framework (the Framework) refers to the need to minimise impacts and provide net gains for biodiversity. Circular 06/2005 states that the presence of a protected species is a material consideration when a proposal would be likely to result in harm to a protected species or its habitat. It goes on to say that it is essential that the extent that protected species may be affected by development is established before permission is granted. I have a duty under the Habitats Regulations⁴ to consider the effect of the proposal upon protected species in such circumstances.
11. The EABMEP identifies that the west boundary hedgerow, a connected hedgerow to the north, and the area at the east of the site are variously used for commuting by a wide assemblage of bats, including barbastelle, greater and/or lesser horseshoe, with the improved grassland also used for foraging.
12. The retention of the north and west hedgerow is identified within the layout plan within the latest EABMEP. The EABMEP suggests that a new hedgerow could be established, and/or a post and rail fence erected, to protect these hedgerows from adjoining public and private spaces. However, it is unclear how long it would take for hedgerows to grow to a point where they could act as a substantial barrier, or if post and rail fencing would be effective in protecting the movement corridors from residential activity and light pollution.
13. Indeed, whilst conditions relating to glazing and external lighting could control light pollution to an extent, the layout plan shows that several of the dwellings

¹ 19 and 20 Lower St, 21 Lower St, 22 Lower St 25 Lower Street, 26 Lower St, Longstone Farm House, Yeatmans, Netherway Farm House, Hill View Farm House

² Pleydells Farmhouse, Nos. 80 & 81

³ Ref 2/2018/0125/OUT

⁴ Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017

and/or outbuildings would be very close to the hedgerows. Turning and parking areas would likely be immediately adjacent. As such, and given that the existing site is intrinsically dark, it seems to me that there would be potential for residential activity within both outdoor and indoor spaces, and through vehicular movements, to prejudice the hedgerows as movement corridors. It also appears likely, from the illustrative layout, that these issues may extend to new areas of hedgerow at the south and east boundaries.

14. The landscaping within the site, and a payment to the Dorset Biodiversity Compensation Framework, is intended to mitigate for the loss of the improved grassland. I question the practical effectiveness of this approach, given that areas of public open space and private gardens would in all reality be used for recreation, and not necessarily entirely preserved as habitat. I am also concerned as to whether or not it would be feasible to deliver the extent of hedgerow proposed within the development, particularly when the need for buffer spaces from existing features are taken into account, and given the evident depth and height they would require in order to act as bat habitat.
15. These matters combine to create significant doubt in my mind that the development of the site with the quantum of housing proposed, in the likely manner as illustrated, would not be detrimental to maintaining the various bat species at a favourable conservation status in their natural range.
16. It follows that I cannot rule out that the proposal would have a significant unacceptable effect on biodiversity, including protected species. The proposal would therefore conflict with the biodiversity aims of Policy 4 of the North Dorset Local Plan Part 1 (adopted 2016), (the NDLP1) and the Framework.

Suitability of the site

17. Policy 2 of the NDLP1 sets out the spatial strategy for the plan area. It seeks to direct most growth to four named towns. Within larger villages the focus is for growth to meet local needs. The land outside of these villages, which are defined by settlement boundaries, is designated as countryside where development is strictly controlled unless essential rural needs would be met.
18. Policy 6 of the NDLP1 states that at least 825 dwellings will be provided in the countryside (including Stalbridge and the villages) over the plan period, but this is to meet identified local and essential rural needs. Policy 20 of the NDLP1 seeks to manage development in areas of the countryside beyond the villages and, amongst other things, does not support new build open market housing unless it is part of a rural exceptions scheme.
19. Okeford Fitzpaine is defined as a larger village and a potential focus for locally required growth. Nonetheless, the site is just outside of the village settlement boundary. It is therefore, for planning purposes, within the countryside. The proposal is not a rural exceptions scheme. Even if it were inside the settlement, the Council has set out a detailed assessment that identifies no outstanding local need for the proposed affordable nor the open market housing. I have not been provided with any contrary evidence to doubt this situation.
20. Given such, the site would not be suitable for the proposal having regard to the development plan's spatial strategy for the supply of housing. The proposal would conflict with Policies 2, 6, 9 and 20 of the NDLP1.

Character and appearance

21. Okeford Fitzpaine sits below Okeford Hill, which is inside the AONB a short distance to the south/south east. Public Rights of Way (PROWs) exit the village and form a network within pasture around the site to the south and west, with the public open space locally designated as an Important Open or Wooded Area (IOWA) to the immediate north west. The village has a linear development pattern historically, but its historic streets are now accompanied by pockets of modern suburban housing, providing for a mixed character. This includes new housing immediately to the east of the appeal site at the 'Old Dairy'.
22. From the PROWs much of Okeford Fitzpaine is screened by greenery, with the Old Dairy site the dominant built form, which presents a reasonably hard edge to the village at that point. The appeal site sits quite inconspicuously between its strong west boundary hedgerow and the Old Dairy site. When visible briefly from the section of PROW directly to the south, the site appears disused and, in truth, it does not relate well visually to the village nor share the charm of its attractive pastoral setting. Developing the site as illustrated would not therefore be harmful from the PROWs, and the scheme would essentially replicate the existing village edge at this point, albeit a little further west.
23. From the IOWA the proposed housing and associated landscaping would likely be peripheral to outward views or, further to the south, at such a distance that the eye would be drawn over and beyond them. Public perception of the AONB landscape around Okeford Hill and the village's rural setting would therefore be largely undisturbed. From elevated land within the AONB, the proposal would closely relate to surrounding built form and the village centre and would read as a logical, small scale and proportionate addition to the settlement.
24. The Council has drawn my attention to separate appeal decisions in Lancashire and Cambridgeshire⁵. However, matters of character and appearance are fact sensitive, rely on planning judgment, and turn on site specific circumstances. It follows that the findings of the respective Inspectors in those cases, in different and distant parts of England, have had little influence upon my reasoning.
25. I therefore conclude on this issue that the proposal would have an acceptable effect on the character and appearance of the area, with reference to the AONB. It would accord with the landscape aims of Policy 4 of the NDLP1 and the National Planning Policy Framework (the Framework).

Heritage assets

26. The appeal site is directly to the south and west of the CA, within the angle of its two principal thoroughfares, Higher Street and Lower Street, which are to the east and north respectively. The site enters the CA at its point of access off Lower Street and falls within the setting of the listed buildings there. It is also within the setting to the rear of listed buildings on Higher Street. I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and a duty to consider the impact of the proposal on the special architectural and historic interest of the listed buildings within Lower Street and Higher Street.
27. The significance of the Lower Street section of the CA derives from its elegant variety of fine historic dwellings set in close rows enclosing the narrow

⁵ Appeal Refs APP/T2350/W/17/3185445 and APP/W0530/W/18/3203109

carriageway. This is aside from the farmyard access, which is as coarse and unceremonious as one would expect. Whilst it contains a dilapidated outbuilding of some likely provenance, it is too far gone to positively influence the CA. Given such, rather than providing a window to the village's agricultural heritage, the site is an unwelcome and incongruous presence within Lower Street. It follows that the site also impinges on the limited significance that the Grade II listed buildings within Lower Street derive from their shared setting.

28. The proposed access arrangement, with appropriate finish materials, would modestly enhance the appearance of the site. Lower Street is a reasonably tranquil environment, but its atmosphere is punctuated by steady vehicular movements. The substitution of agricultural activity to and from the site with the proposed scale of residential use would not harm the character of the CA in this respect. Although the access road would be close to Yeatmans, historic buildings along Lower Street are characteristically close to vehicle borne spaces. Given such, the proposed development would not cause harm to the Lower Street section of the CA nor the setting of its constituent listed buildings.
29. The dense trees and vegetation at the fringes of the CA, rather than setting a rural backdrop, almost completely obscure its historic built core from views within the IOWA and along the PROWs. Instead, it is the housing at the Old Dairy that dominates perception of the CA in these areas. From higher ground the CA is read against the wider rural setting of the village and the modern housing within it. For these reasons, the scheme would have a negligible effect upon the significance that the CA draws from its setting. Given the limited intervisibility, and as the listed buildings on Higher Street show rear elevations towards the site, the scheme would not harm their respective settings either.
30. Consequently, the proposal would have an acceptable effect on designated heritage assets, with reference to the CA and the setting of Grade II listed buildings within Lower Street and Higher Street. It would accord with the heritage aims of Policy 5 of NDLP1 and the Framework.

Other Matters

31. The UU seeks to secure planning obligations in relation to open space provision, AH, a footpath and education, health, allotment, sport and Public Right of Way contributions. However, as I am dismissing this appeal for other reasons, I have not considered it further.

Planning Balance

32. The scheme would conflict with the development plan's spatial strategy and insofar as it seeks to safeguard and enhance protected species.
33. The spatial strategy is consistent with the Framework in the sense that it seeks to direct housing to the most suitable places and where it responds to local need. That said, the Framework also requires development plans to provide sufficient levels of housing to support the objective of significantly boosting supply. This is not the situation here, and has not been for some time, with the latest evidence pointing to stalling housing delivery and a four-year supply of deliverable housing sites⁶. I therefore attribute limited weight to the conflict with the spatial strategy, and Paragraph 11d) of the Framework is engaged.

⁶ As identified in Appeal Ref APP/D1265/W/20/3245198

34. Policy 4, on the other hand, is consistent with the Framework and the duty imposed by the Habitats Regulations in respect of protected species. The conflict with Policy 4 therefore attracts very significant weight in this case. This leads me to find that the scheme would conflict with the development plan when read as a whole.
35. I also have no reason to doubt that the Extant Permission is more than a theoretical prospect. As it establishes the principal of a significant amount of housing development across much of the site, it weighs in favour of the scheme in this respect. However, the Extant Permission would not extend housing across the improved grassland nor within such harmful proximity to the west boundary hedgerow. Consequently, it does not serve to justify the biodiversity harm identified.
36. The scheme would make a clear contribution to addressing the housing shortfall across the plan area. I have no doubt that a good housing mix could be achieved, which would include AH, in a part of Dorset that the Council has identified to have AH need owing to high house prices and a prevalence of second homes. Okeford Fitzpaine is well served by facilities, with a public house, shop and post office, primary school, village hall, allotments and the IOWA. Whilst it is clear that the proposal would add to a local housing supply which is already above that required, how this would cumulatively adversely affect Okeford Fitzpaine in practical terms is not substantiated. Rather, it seems more likely that the proposal would help to maintain and improve the clear vitality of services, and therefore the community, within the village⁷.
37. The site is accessible to public transport links to villages in the local area and the nearby town of Sturminster Newton, a principal location for growth in the NDLP1. As such, occupants of the scheme would have adequate access to services, without an undue dependence on the private motorcar. For these reasons, the housing benefits of the proposal attract significant weight. The additional open space and footpath are benefits of modest weight, as would be the time limited economic benefits accrued during construction. The absence of harm with regard to landscape and heritage are neutral in the balance.
38. I am, however, also mindful that Paragraph 175 of the Framework states that if significant harm to biodiversity cannot be adequately mitigated, then planning permission should be refused. On this basis, I find that the adverse impacts of the development borne through the conflict with the spatial strategy and the harm to biodiversity, with reference to protected species, would significantly and demonstrably outweigh the benefits of the proposal, when considered against the policies within the Framework taken as a whole.
39. Overall, there are no other material considerations, including the Framework, that outweigh the conflict I have identified with the development plan.

Conclusion

40. For these reasons, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

⁷ Having regard to the reasoning in Appeal Ref APP/R3325/W/15/3131336