
Appeal Decision

Site visit made on 23 March 2021

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 21 April 2021

Appeal Ref: APP/K2420/W/20/3261195

Land North of Bardon View, High Tor East, Earl Shilton, Leicestershire, LE9 7DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Freer against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 20/00525/OUT, dated 28 May 2020, was refused by notice dated 29 July 2020.
 - The development proposed is change of use of allotment land and erection of two detached houses with amenity space, parking and turning area.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application is in outline with all matters reserved except for access and layout. I have therefore considered the details set out on plan No 8157P-01 as part of this decision.

Main Issues

3. The main issues in this appeal are:
 - would the location of the appeal proposal be appropriate in terms of its relationship to Earl Shilton; and
 - the effect of the development on the character and appearance of the area.

Reasons

Location of the proposed dwellings

4. The site lies within an area of allotments on the edge of Earl Shilton. Beyond the allotments, to the north, lies open countryside, whilst to the south are the houses located along High Tor East.
5. High Tor East itself is a partly unmade, unadopted road which serves dwellings of a variety of ages, some of which appeared to be still under construction. To the south of the dwelling known as 'Bardon View' there is continuous development on both sides of the road. This development ends at 'Bardon View' and the house shown as 'Woodlands' on the location plan. High Tor East

- whilst being reasonably flat, slopes as it enters the area of the allotments and there is an impression of descending a scarp slope in this location. The appeal site lies on this sloping land below the other dwellings on High Tor East.
6. The appeal site itself lies within an area of allotments and is currently laid out as an allotment. The allotments appear to be well maintained with sheds and other structures which are associated with allotment use.
 7. The allotments themselves are largely open and relate well to the open countryside beyond. Consequently, the appeal proposal would have the effect of extending the built development of High Tor East into the open countryside surrounding Earl Shilton.
 8. The development plan for the area consists of the Earl Shilton and Barwell Area Action Plan, adopted in 2014 (AAP), the Local Development Framework Core Strategy, adopted December 2009 (CS) and the Local Plan 2006-2026 – Site Allocations and Development Management Policies Development Plan Document, adopted July 2016 (DPD).
 9. The Council considers that the appeal site lies outside the settlement boundary of Earl Shilton and therefore Policy DM4 of the DPD concerning the safeguarding of the countryside should apply. There is a clear distinction between the houses and gardens on High Tor East and the allotments beyond.
 10. The houses and gardens display a typically urban character whilst the allotments, despite containing sheds and other structures, are more related in character to the open countryside beyond. Therefore, the appeal site lies within the countryside beyond the built-up edge of Earl Shilton.
 11. Policy DM4 seeks to protect the intrinsic value of the countryside by restricting the type of development which will be permitted within it. The list of developments acceptable in terms of the policy includes outdoor sport and recreation, re-use of existing buildings, significant economic development, renewable energy, and accommodation for rural workers. The appeal proposal does not fall within any of these categories of acceptable development under this policy. As a consequence, I find that the proposed development is in conflict with this policy of the development plan.

Character and appearance of the area

12. The character of the area within which the appeal site is located is characterised by allotments and their ancillary structures. Whilst it is next to built development, the area displays an open character which is typical of the allotments and the countryside beyond. The fall in the land from the houses located on High Tor East to the allotments and the open countryside is also a key characteristic of the area and means that at least part of the site would be prominent when viewed from outside the village.
13. The appeal proposal would extend the area of built development on High Tor East into the open countryside. This together with the fall in the land from the built development on High Tor East would mean that the proposal would be a prominent and incongruous feature in the local landscape and harm the character and appearance of the countryside surrounding the village.
14. Policy DM10 of the DPD seeks, amongst other things, to ensure that development complements and enhances the character of the surrounding

area. The appeal proposal as explained above would harm the character and appearance of the countryside surrounding Earl Shilton by introducing new housing which would be an intrusive and incongruous feature extending into the countryside surrounding the village. As a result, the appeal proposal would be in conflict with this policy of the development plan.

Conclusion on the development plan

15. Overall, I find that the proposal conflicts with the development plan as a whole as it would lead to development in the open countryside surrounding Earl Shilton and harm the character and appearance of the locality through the introduction of a prominent and incongruous development in a countryside location. This would be in conflict with Policy DM4 and DM10 of the DPD.

Other Matters

16. The appellant has referred to other planning applications which have been made around Earl Shilton. One of these applications has already been refused and the other has yet to be determined. I have had regard to these applications in this decision. However, it is my view that they carry limited weight as each application has to be treated on its own merits. However, I do accept that there is a need for consistency in the planning system.
17. Reference has also been made to the development of other houses on High Tor East which utilised former allotment land. It is my understanding from the submissions of both parties that these sites lay between existing development and were located between the end of the built development on High Tor East and Keats Lane. Whilst I acknowledge that I have had regard to these sites in this decision, I also recognise that these sites have a different relationship to the land around them than the appeal site and so have little relevance to the appeal proposal in terms of the application of development plan policy.

Presumption in favour of sustainable development (paragraph 11 d) ii)

18. It is accepted by both parties that the housing policies of the development plan are out of date as they focus on the delivery of a lower housing requirement than the up to date figure. This has been clarified in the Council's statement in that the policies in the development plan focus on delivery of 450 dwellings per annum (dpa) rather than the up to date figure of 452 dpa.
19. I note that this is a small difference, however it is sufficient to trigger the application of the presumption in favour of sustainable development as set out in paragraph 11 d) ii) of the National Planning Policy Framework (the Framework).
20. I also note that as of April 2020 the Council can demonstrate a 5-year supply of deliverable housing sites. However, as stated earlier, there is still a need to apply the presumption in favour of sustainable development as the housing delivery focus of the development plan policies is on the delivery of a lower housing requirement than is currently the case.
21. The proposal would introduce a prominent and incongruous feature on to the edge of Earl Shilton which would harm the character and appearance of the countryside in this location and the countryside setting of the village. The Framework, whilst seeking to boost the supply of homes also recognises that planning decision should contribute to and enhance the natural and local

- environment by recognising the intrinsic character and beauty of the countryside. I give substantial weight to the harm the appeal proposal would cause to the character and appearance of the countryside in this location.
22. The appeal proposal would provide a small 'boost' to the deliverable supply of housing within the District. However, given the small scale of the appeal proposal and that the Council can now demonstrate a 5-year supply of deliverable housing sites I give this benefit limited weight in this decision.
23. It would provide a turning facility for vehicles at the end of High Tor East. Whilst this would be a benefit of the proposal, it would have little wider benefit to the community as a whole. I therefore give this limited weight in this decision.
24. The appeal proposal would be within walking distance of the village centre and would therefore be of some economic benefit to businesses in the village. I find that given the substantial size and scale of Earl Shilton and the small scale of the appeal proposal in relation to the village as a whole, this benefit would be minor. I therefore give it limited weight in this decision.
25. Finally, the proposal would contribute to the local economy during its construction. However, this benefit would be short term and occur during the construction phase only and therefore would be fleeting. As a result, I give it limited weight in this decision.
26. I therefore find that the adverse impacts of approving the appeal proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Planning Balance

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are taken in accordance with the development plan unless material considerations indicate otherwise.
28. I have set out above how I consider that the appeal proposal conflicts with Policies DM4 and DM10 of the DPD. I have had regard to the material considerations advanced by the appellant in support of the proposal. However, I have not found that these material considerations outweigh the conflict I have identified with these policies of the development plan.

Conclusion

29. I therefore find that the appeal should be dismissed.

Peter Mark Sturgess

INSPECTOR