
Appeal Decision

Site visit made on 1 April 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2021

Appeal Ref: APP/W1850/W/20/3263514

Land to the North of Woodend Lane, Gorsley HR9 7SR

- 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 John Watkins against the decision of Herefordshire Council.
 - The application Ref 202152, dated 3 July 2020, was refused by notice dated 16 November 2020.
 - The development proposed is erection of 5 no. dwellings (3 no. bungalows and 2 no. 2-storey dwellings) and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In accordance with the Coronavirus (Covid-19): planning update published by Ministry of Housing, Communities and Local Government (MHCLG) on 13th May 2020, neighbourhood plans awaiting referendums can be given significant weight in decision-making. I have acted accordingly in relation to the emerging Linton Parish Neighbourhood Development Plan (NDP).
3. The appellant's final comments include a number of appeal references which do not appear to have been submitted within their original statement and therefore constitute new evidence. This new evidence has not been considered under the appeal on the basis because neither the Council nor other interested parties will have had an opportunity to comment on it.

Main Issues

4. The main issues are whether the proposal:
 - (a) is in an appropriate location for housing relative to the spatial strategy for the area and in relation to service provision and the effects on the character and appearance of the countryside; and
 - (b) has an appropriate housing mix.

Reasons

Location

5. The site is located adjacent to the settlement of Gorsley, to the south west of its built up area, in accordance with the defined settlement boundary established within the emerging NDP. A committed site for residential development is located directly to the north east of the site and forms the southernmost boundary of Gorsley's built up area.

6. To the west of the site are rolling agricultural fields and other rural features such as farmsteads, mature hedgerows, and trees, among other things. The area has a discernible rural character and appearance which is reflective of its designation as countryside within the development plan, where it falls outside Gorsley's defined settlement boundary. Altogether, for the purposes of the development plan, the site sits adjacent to an existing settlement consistent with the requirements of Policy RA2 of the Herefordshire Local Plan Core Strategy 2015 (CS), wherein there should be opportunities for housing to maintain and strengthen sustainable communities across rural Herefordshire.
7. However, later in the CS under Policy RA3, it is made clear that outside of settlements and in the countryside, whether it be adjacent or detached from the built up area of the settlement, opportunities for housing will be strictly controlled and delivered only in exceptional circumstances. For example, among other things, in accordance with Policy H2 of the CS through the delivery affordable housing. Consequently, in my mind Policy RA3 of the CS is not in direct conflict with Policy RA2 of the CS as it provides opportunities for housing adjacent to settlements, albeit in the context of exceptional circumstances.
8. Therefore, despite being adjacent to the settlement of Gorsley, the proposal would deliver market housing within the countryside and does not conform to any of the exceptional circumstances established within the development plan. It would therefore, as a matter of principle, lead to a pattern of development at Gorsley that encroaches into the countryside and fundamentally erodes the rural character and appearance therein.
9. Physically, the proposal would share the same site as the committed development directly to the north east. Consequently, and for completeness, it is reasonable to say that there is a natural rounding off of the site in a loosely knit manner similar to the arrangement of dwellings within Gorsley and where the pattern of development would terminate at the light industrial use to the west. Furthermore, the topography of the site, including existing and proposed landscaping in conjunction with sensitive siting of low rise development (bungalows) would help mitigate some of the visual impact of the proposal.
10. Even so, there is no evidence that it would fully mitigate visual encroachment into the countryside completely. Ultimately, further development along Woodend Lane would be visible beyond the existing defined settlement boundary and building beyond the committed development to the north east would lead to the emergence of a linear spur extending from the western extent of Gorsley. This would cause harm to the rural character and appearance of the area.
11. In terms of the status of the defined settlement boundary as a policy tool in and of itself, it is not merely a line on a map in policy terms, it has been devised through a statutory process which has taken into account the qualities of the settlement, in terms of its pattern of development and its countryside setting. This has been endorsed very recently through examination and it is therefore important to uphold. I can appreciate that through the passage of time, patterns of development around settlements change on the ground. As such, the context within which a proposal's relationship with defined settlement boundaries should be assessed must be considered in a flexible manner, especially if things have changed markedly since it was first established.

12. However, to my mind the emerging NDP and defined settlement boundary in this case is reflective of the current position on the ground, due to how recently it was devised, and carries significant weight in this context.
13. Notwithstanding the erosion of the rural character and appearance of the area, through the physical expansion of Gorsley's pattern of development, it is an identified settlement for sustainable growth under Policy RA2 of the CS. In this context, it is explicit therein that the settlement will have the service provision to support additional housing. This fact, coupled with the limited number of dwellings proposed in the context of minimum (and not maximum) growth targets, means that the proposal is unlikely to overwhelm existing service provision at the settlement.
14. Furthermore, given the shared access and linkages with the committed site to the north east, which was approved as a sustainable location for housing growth in movement terms, it would be unreasonable for me to come to a different conclusion as to the acceptability of the site relative to service provision. Indeed, there is no evidence that the proposal would be unacceptable from an access to services standpoint.
15. Overall, notwithstanding the site's adjacency to the defined settlement boundary and good access to services, the proposal would not be in an appropriate location for open market housing relative to the spatial strategy for the area due to the harmful effects on the rural character and appearance of the countryside.
16. It would therefore conflict with Policies SS1, SS6, RA3 and LD1 of the CS. Among other things these policies seek to strictly control development in the countryside, preventing unsustainable patterns of development. Due to the statutory nature of the development plan, any conflict with it carries great weight in the planning balance.
17. Policies within the NDP appear to fall silent on the acceptability of proposals outside of defined settlement boundaries and focus on the acceptability of proposals within defined settlement boundaries. Therefore, I have not necessarily found evidence that establishes clear conflict in this regard, and in accordance with the relevant judgement¹ it is not appropriate for me to consider an inference of potential conflict in the absence of explicit support. In any event, this does not change my assessment of the proposal's conflict with other policies within the development plan that explicitly deal with the acceptability of proposals in the countryside, as already established above.

Housing Mix

18. The proposal would provide bungalows, which because of ground floor living and ease of access therein, would cater for elderly populations. Consequently, despite the relatively high number of bedrooms, their configuration and utility are clearly identifiable. The remaining two storey, larger and more traditional dwellings comprised in the proposal would introduce a higher number of bedrooms that may not strictly fit within the wording of Policy BGL7 of the NDP. However, when looking at the dwellings in conjunction with the bungalow provision, and the fact they would be limited in quantum, it is unlikely to result in the disproportionate delivery of one housing type over another in the area.

¹ Chichester District Council v SSHCLG & Anor [2019] EWCA Civ 1640

19. Going further, the wording of Policy BGL7 of the NDP is clear in that smaller 2 and 3 bedroom dwellings will be encouraged, it does not state that anything larger than that would be harmful. In addition to the above, I note demand for housing is at least in part driven by market forces.
20. This is something acknowledged at Paragraph 1.36 of the Local Housing Market Assessment 2013, which the appellant shows influence the housing mix within the site. In addition, it appears that the same assessment identifies a need for 3 and 4 bedroom dwellings in the Ross Housing Market Area specifically, wherein the site is located.
21. Overall, the proposal would provide a range of housing and would contribute to the creation of a balanced community in accordance with Policy H3 of the CS and Policy BGL7 of the NDP, which among other things seek to ensure proposals bring forward a mix of dwellings that respond to local needs.

Planning Balance

22. It is accepted that the Council cannot demonstrate a sufficient level of housing land supply. However, whether it is substantial or not and any weight afforded to conflict with the spatial strategy of the development plan is significantly contested. Even if the shortfall was substantial, and reduced the great weight afforded to conflict with the development plan, the number of dwellings proposed would only deliver a small and limited percentage increase in the overall housing land supply position.
23. Consequently, any weight afforded to the benefits of boosting housing land supply, and the socio-economic benefits associated with construction, among other things, would be limited. Furthermore, the performance of the Linton Neighbourhood Area's housing delivery has not been disputed, providing 21% growth above minimum targets. This further dilutes the benefits associated with additional housing in this particular area. It is acknowledged by the appellant that benefits associated with biodiversity and sustainable design would be similarly limited.
24. Given the above, in the absence of sufficient housing land supply, Paragraph 11d ii) of the National Planning Policy Framework is engaged. In this context, the adverse impacts derived from conflict with the spatial strategy, when coupled with harmful effects on the character and appearance of the area, even if carrying reduced weight would significantly and demonstrably outweigh the benefits derived from boosting housing land supply, among other things, which would carry limited weight. Altogether, this would not result in a presumption in favour of sustainable development.

Conclusion

25. For the reasons given, there would not be a presumption in favour of sustainable development suggesting a decision other than in accordance with the development plan should be taken. Consequently, conflict with the spatial strategy of the development plan means that the appeal is dismissed.

Liam Page

INSPECTOR