



Appeal Decision

Inquiry held on 8 December 2021

Site visit made on 10 December 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2022

Appeal Ref: APP/K2420/W/21/3279808

Land at Station Road, Market Bosworth CV13 0PE

- 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 Richborough Estates & Messrs Vero against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 20/01021/OUT, dated 24 September 2020, was refused by notice dated 8 June 2021.
 - The development proposed is residential development up to 63 dwellings with associated access, landscaping, open space and drainage infrastructure (Outline - access to be considered).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was made in outline with all detailed matters, apart from access, reserved for future consideration. I have dealt with the appeal on that basis, treating any details of other matters shown on the plans as illustrative.
3. A duly signed Legal Agreement dated 16 December 2021 has been submitted to secure primary and secondary educational capacity, healthcare, library and waste management provision as well as open space and play provision and maintenance, sustainable travel measures, affordable housing provision and monitoring of these planning obligations. I have taken these into account as part of my determination.
4. The main parties have confirmed through the Housing Land Supply Statement of Common Ground ("the HLS SoCG") that the Council cannot demonstrate a 5 year housing land supply. It has also been agreed that paragraph 11 (d) of the National Planning Policy Framework ("the Framework") is engaged. Based upon the evidence before me, I concur with these conclusions and also with the list of development plan policies deemed most important in this case as set out in the Planning SoCG ("the PSoCG").
5. Since the close of the Inquiry the most recent Housing Delivery Test 2021 results ("the HDT results") have been published. Accordingly, the main parties have been given the opportunity to make comment and I address this later in my Decision.

Main Issue

6. The main issue is the effect of the appeal proposal on the character and appearance of the area, with particular regard to Important View 1, Vista 11 and public footpath S70/1.

Reasons

Character and appearance

7. The appeal site is located on lower ground on the edge of Market Bosworth, outside the adopted settlement boundaries. It comprises a series of fields on one side of Station Road which are intersected by an access road serving the adjoining golf club. The crest of the rising ground here is defined by a dense copse of trees ("the wooded hilltop") which provides a strong backdrop to the appeal site. Both Station Road and the wooded hilltop effectively contain the settlement edge here from the surrounding countryside. The wooded hilltop is integral to the locally distinctive character and appearance of the settlement's setting from a main approach along Station Road.
8. This part of Market Bosworth is varied in appearance, with housing and business development on one side giving a suburban residential and industrial character. This contrasts with the green, relatively undeveloped countryside character on the opposite side of Station Road, to which the appeal site positively contributes and reinforces. The appeal site clearly forms part of the countryside which surrounds Market Bosworth. It was demonstrated that the appeal site reflects characteristics of the typical qualities of the National Character Area 94 and the Local Character Area C Bosworth Parkland ("the LCA"). The site itself has a particular informal scenic quality on account of its role as an important part of the Town's pastoral countryside setting.
9. The relationship of the countryside with the existing built form is one of this Key Rural Centre's important characteristics which contributes significantly to its local distinctiveness. The development plan recognises the importance of this and seeks through a number of means to manage the particular sensitivities to physical change. Relevant to the appeal proposal, Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document ("SADPD") seeks to safeguard the countryside from unsustainable development. Policy CE3 of the Market Bosworth Neighbourhood Plan 2014-2026 ("the MBNP") seeks to protect and enhance existing open spaces and important landscape characteristics. Specific to the appeal site is the designation through the MBNP of inward facing Important View 1 and outward facing Vista 11. Policy CE5 of the MBNP seeks to conserve and enhance the distinctive landscape which surrounds the Town.
10. A component of Important View 1 is the extensive green, countryside landscape context along Station Road. The existing commercial and residential development along this main pedestrian and vehicular route also forms part of this view. However, visually these elements are more discreet in the street scene given the positioning of buildings and existing planting. The main component and focus of Important View 1 is the appreciation of the commanding, exposed wooded hilltop which rises above the appeal site and screens much of the elevated part of the Town from views along the route of this Important View.

11. With the exception of the neighbouring golf club and existing dwellings on either side of Vista 11, this panorama is uninterrupted by built development, providing outward facing, wide horizontal countryside views which are far reaching towards North West Leicestershire. This is why that particular extensive vista is identified by the MBNP as being important.
12. There is no dispute between the main parties that the appeal proposal would cause a minor adverse effect at the LCA level. When observed from public footpath S70/1, the adverse effect that would arise in landscape and visual terms would be minor, representing a limited degree of harm. However, the appeal proposal would be highly visible on approach along Station Road. The site's character and appearance would be fundamentally altered by the appeal proposal. Even with mitigation, by Year 15 the proposed measures would not adequately address the permanent change in landscape character of the site from open rural pasture to a suburban housing development. The residual impact of this would be moderately adverse.
13. The contribution that the undeveloped appearance of the appeal site makes to the informal pastoral foreground and framing of the exposed wooded hilltop within Important View 1 is what sets this particular site apart from other undeveloped countryside sites surrounding the settlement. Crucially, the visual contribution which the rising land makes to defining the wooded hilltop as the main focal point of this particular view would be substantially eroded by the appeal proposal. Along much of the route of this particular Important View the definition and commanding presence of this wooded hilltop in its totality would be permanently lost due to the location and scale of development proposed relative to it. Furthermore, the extension of this suburbanised settlement edge beyond Station Road would be largely unbroken along the extent of Important View 1 despite the proposed mitigation measures.
14. The submitted photographic evidence demonstrates that the considerable adverse consequences on Important View 1 would be experienced on a localised level. Although filtered in parts, the harm would be continuous along the length of Important View 1. This would permanently and substantially erode the distinctive character and appearance of this part of the settlement's edge. Such a serious effect would be significantly adverse regardless of the season. The evidence before me does not demonstrate that this could be reduced to a level at the reserved matters stage that could be tolerated by Policy CE3 of the MBNP.
15. It is evident that the location, scale and form of development proposed would leave only a remnant of Important Vista 11. The pastoral foreground of this Vista would be replaced with a suburban housing estate and managed public open space. Furthermore, the proposed mitigation planting would in time obscure part of the limited remaining views towards North West Leicestershire. This means that the most important components of Vista 11 which the community has placed great value on through its designation in the MBNP would be almost totally lost.
16. The appellant has highlighted the opportunities for a different vantage point to be secured within the proposed public open space. However, that other vista is located away from Station Road, at a higher ground level, closer to the golf club. The informal pastoral foreground would be foregone, and the observer would be presented with the stark upper components of the proposed built

development. This would be neither comparable nor an improvement to the existing Vista 11. Moreover, the submitted evidence does not indicate to me that this could be remedied through an alternative layout or other mitigation. This would represent the substantial depletion of unimpeded Vista 11.

17. This in itself constitutes permanent and considerable harm to the existing distinctive character and appearance of the area regardless of the season. The impact of this would be felt most by pedestrians and motorists. The harm to Vista 11 would be significantly adverse.
18. In conclusion, the magnitude of change arising from the appeal proposal would be considerable. The adverse impacts resulting from this change would not be adequately mitigated even in the long term. For these reasons, I find that overall the appeal proposal would cause permanent significant adverse impacts to the distinctive character and appearance of the area, with particular regard to Important View 1 and Vista 11. However, the harm to users of public footpath S70/1 would not be significant.
19. My attention has been drawn to a number of Decisions for other sites in the Borough which are relevant to the interpretation of the development plan policies at play here. These lead me to find that Policies DM4(i) of the SADPD as well as CE3 and CE5 of the MBDP are consistent with the Framework, notably Paragraph 174. Furthermore, Policy DM4 contains the necessary balance and focus to provide controls in respect of development in the countryside which is significantly adverse in landscape and visual terms. Policy CE5, including its express reference to "mitigated", mirrors Policy DM4 in a number of respects and provides a more local counterpart to it. As such, I find that any conflict with DM4(i) would also give rise to conflict with Policy CE5. Furthermore, Policy CE3 should be applied having regard to mitigation, on the same basis as Policy CE5.
20. My attention has also been drawn to the fact that the MBNP Examiner noted that the amended wording of Policy CE3 of the MBNP would allow for "slight harm" to be permitted with the introduction of the "significant adverse impact" policy test in respect to the identified Important Views and Vistas. The layout plans submitted are indicative. However, it has not been adequately demonstrated that an alternative layout of the scale of development sought could be achieved which would reduce the level of harm to one within the tolerance of Policy CE3. Neither does the submitted evidence lead me to find that Policy CE3 is written in a manner which means that separate events elsewhere covered by a different development plan policy could affect its operation or the weight to be afforded to any identified conflict.
21. Given the nature, level and significance of the harm that I have found, the appeal proposal clearly conflicts with Policy DM4 of the SADPD as well as Policy CE3 and Policy CE5 of the MBNP.

Other Considerations

22. From my site visit and the submitted evidence, I concur with the main parties that the appeal proposal would have no effect on the setting and significance of the designated and non-designated heritage assets in the locality. Consequently, there are no conflicts with Policies DM11 and DM12 of the SADPD or with the Framework in terms of heritage. Furthermore, the provisions of the Planning (Listed Buildings and Conservations Areas) Act 1990

are not contravened. There are no other policies in the Framework which protect areas or assets of particular importance that are relevant to this particular proposal.

23. At the Inquiry there was a session to discuss the potential for noise and disturbance from the identified surrounding noise sources and a technical note was provided by the main parties. This matter had been raised by interested parties. However, it does not form part of the Council's reasons for refusal, and they raised no objections through the course of the Inquiry. In this particular case, I find that the evidence is inconclusive in terms of demonstrating that an appropriately worded condition would be effective. However, neither was any convincing evidence put before me which suggested otherwise. Therefore, this is a neutral factor in my determination of this appeal.
24. Despite the Council's approach to the location of the appeal site beyond the defined settlement boundary, it remains that the appeal proposal is contrary to Policy 7 of the Hinckley and Bosworth Borough Core Strategy ("Core Strategy"). This policy is broadly consistent with the Framework however, it does constrain the location of new housing development.
25. With this in mind, Paragraph 60 of the Framework states that it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed. Paragraph 74 of the Framework requires councils to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years' worth of housing. In this case the submitted HLS SoCG confirms a 4.45 year housing land supply currently exists and it is agreed that paragraph 11 (d) of the Framework is engaged. Whether Policy DM1 supports the appeal proposal will depend on the outcome of the necessary planning balance since it largely reiterates the Framework's presumption in favour of sustainable development.
26. The appellant's evidence highlights that this Boroughwide shortfall in supply and delivery is pertinent to this particular Town itself, which they argue attracts very significant weight in favour of the appeal proposal. My attention has been drawn to a discrepancy between what the main parties expected the housing delivery position to be in the HDT 2021 results and what has been published since the close of the Inquiry. Irrespective of this, I have found that Paragraph 11(d) of the Framework is engaged for the reasons set out earlier. The appeal proposal would make a reasonable and timely contribution to the shortfall in housing land supply and delivery within both the Town and wider Borough.
27. I have carefully considered all of the relevant housing land supply and delivery evidence presented as well as the recently published HDT 2021 result. The housing position at both the Borough and settlement level is challenging. However, even in accepting the appellant's finer grain arguments, I conclude that overall the housing delivery benefits are not of a magnitude which warrant elevation to a status exceeding that of significant favourable weight. The prospect of the HDT 2021 result being revised slightly downwards in due course does not alter my conclusion that this contribution carries significant favourable weight.
28. The submitted evidence identifies an unmet need for affordable housing within the settlement and wider Borough in a context of under delivery of housing. The appeal proposal would provide a timely policy compliant and therefore

reasonable contribution to these important needs. The submitted planning obligation provides an appropriate mechanism to secure this. The evidence before me does not challenge either its necessity or viability. I am also satisfied that this obligation is directly related to the development and fairly related in scale and kind. The submitted evidence indicates to me that the resulting affordable housing benefit of this appeal proposal carries significant favourable weight in this instance.

29. The proposed public open space is in excess of that required to be policy compliant. However, this was evidently driven by design and ecological mitigation requirements and given the peripheral location of the appeal site it is likely to be of most benefit to the future occupants of the scheme. I conclude that this benefit carries moderate weight. Minor improvements to drainage in the area attract limited weight. The appeal proposal would secure some biodiversity enhancements which would be of benefit to protected species and also a biodiversity net gain of 14% has been demonstrated. A technical note was submitted to the Inquiry, and I concur with the main parties that this could all be necessarily and reasonably secured by the imposition of a planning condition. This benefit carries moderate weight in favour of the appeal proposal.
30. The economic benefit of housing development during the construction period will be relatively short in duration given the scale of development proposed. The appeal site's accessibility to services and facilities is a sustainability credential which negates harm from unsustainable travel patterns and is therefore of neutral consequence in this planning balance. No substantive evidence was provided to demonstrate that the appeal proposal is vital to support the viability and vitality of existing local services in a context of a shortfall in housing provision. Therefore, limited weight is afforded to the economic benefits of the appeal proposal.
31. The submitted legal agreement would secure the remaining local infrastructure and sustainable travel requirements to support the appeal proposal. The evidence before me does not challenge either the necessity or the viability of these obligations. I am also satisfied that all of these obligations are directly related to the development and fairly related in scale and kind. However, as these obligations are required mitigation measures they carry limited weight in favour of the appeal proposal.
32. For the reasons set out above, I have found that the appeal proposal conflicts with Policy 7 of the Core Strategy. The circumstances here mean that the weight afforded to this policy is reduced. However, there is also conflict with Policy DM4 of the SADPD, as well as Policy CE3 and Policy CE5 of the MBNP. Their weight is unaffected as crucially although their outcome may constrain housing, unlike Policy 7, these policies also serve an important function relating to managing the important character and appearance of the area. These serious conflicts with the development plan when taken as a whole carry great weight.
33. In respect to the conflicts with the MBNP, the circumstances here do not fully meet all of the criteria set out in Paragraph 14 of the Framework and in this instance that attracts moderate weight in favour of the appeal proposal.
34. Nonetheless, even in accepting the housing position at the settlement level, I find that the identified adverse impacts arising from this appeal proposal would

significantly and demonstrably outweigh the benefits of the scheme when assessed against the Framework taken as a whole, including the benefits arising from the provision of additional market and affordable housing. Consequently, the appeal proposal does not meet the Framework's presumption in favour of sustainable development. This outcome also means that Policy DM1 of the SADPD does not support the appeal proposal.

35. Consequently, in this particular case the other material considerations do not justify allowing this appeal given the harm that has been identified and the resulting conflict with the development plan when taken as a whole.

Conclusion

36. For the reasons given above, I conclude that the appeal should be dismissed.

C Dillon

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms S Reid called:

Mr B Pycroft - Emery Planning
Mr J Berry - Tyler Grange
Mr R Lomas - Richborough Estates
Mr A Bennett - MEC.

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Corbet Burcher called:

Mr N Wakefield - Node
Mr J Weekes - Aitchison Raffety
Mrs H Nightingale - Hinckley and Bosworth Borough Council
Mr N Thomas - Leicestershire County Council
Mr G Rawdon - Hinckley and Bosworth Borough Council.

INTERESTED PARTIES:

Councillor Cook - Hinckley and Bosworth Borough Council
Mr J Wasteney - Market Bosworth Parish Council
Mr G Denny - Kyngs Golf and Country Club
Mr N Brewster - local resident
Mr J Manley - Market Bosworth Parish Council and Market Bosworth Vision Planning Group
Mr N Palmer -Market Bosworth Society.

INQUIRY DOCUMENTS

- ID.1 Highways note from Hub Transport Planning Ltd dated 07/12/21
- ID.2 Noise note from M-EC Acoustic Air dated December 2021
- ID.3 Combined Visualisations
- ID.4 Council's opening submissions
- ID.5 Appellant's opening submissions
- ID.6 Statement made by Ward Councillor Cook
- ID.7 Statement made by Parish Councillor Wasteney
- ID.8 Statement made by Mr Brewster
- ID.9 Statement made by Parish Councillor Manley
- ID.10 Statement made by Mr Palmer
- ID.11 Errata sheet from Mr Berry
- ID.12 Highways note from HBBC dated 13/12/21
- ID.13 Extract of Burbage Neighbourhood Plan Submission Document
- ID.14 Extract of Burbage Neighbourhood Plan Examiner's Report
- ID.15 Sketchley Farm, Burbage Appeal Decision
- ID.16 Statement made by Mrs Birch
- ID.17 Noise note and appendices
- ID.18 Summary sheet re: S106 Planning Obligations
- ID.19 CIL Compliance Statement Addendum from HBBC
- ID.20 Updated list of agreed conditions
- ID.21 Ecology Note from HBBC
- ID.22 Council's closing submissions
- ID.23 Appellant's closing submissions