



Appeal Decision

Site visit made on 30 June 2022

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2022

Appeal Ref: APP/A1910/W/21/3278280

Land south west of Frindles, Cheverells Green, Pickford Road, Markyate, Hertfordshire, AL3 8AB

- 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 Land and Partners (South East) Limited against the decision of Dacorum Borough Council.
 - The application Ref 21/00441/OUT dated 29 January 2021, was refused by notice dated 2 June 2021.
 - The development proposed is described on the application form as "Outline planning application with all matters reserved except access for the development of 4 dwellings on land north of Pickford Road, Markyate".
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Decision

1. The appeal is dismissed.

Procedural matters

2. The proposal seeks outline planning permission, with all matters other than access reserved for future consideration.
3. The appellant submitted an illustrative common land plan after the application was determined which provided a greater level of detail on the use and replacement of the existing common land (Drawing No MCL/001). I am satisfied that the Council and other interested parties would not be prejudiced by my consideration of this additional information and as a consequence I have considered the appeal on this basis.
4. The scheme was originally recommended for approval by officers, but overturned by Members at Committee. Although the Council subsequently submitted a written appeal statement in support of its decision, this was received after the deadline and consequently returned. My assessment of the Council's decision has therefore been restricted to the information contained in its reason for refusal.
5. Since the appeal was submitted, a revised version of the Framework¹ has been published. Both main parties were given the opportunity to comment on this and where applicable, I have taken their responses into account.
6. The Council submitted late evidence relating to the Chilterns Beechwoods Special Area of Conservation (SAC), in connection with recent advice provided

¹ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, July 2021.

by Natural England dated 14 March 2022 to avoid adverse impacts upon this. However, given that I am dismissing the appeal for other reasons, it has not been necessary for me to consult the appellant in respect of this matter as it would not have altered the outcome.

Main issues

7. Although the case officer's application report states that the appeal site falls outside the village boundary for Markyate, the Council's reason for refusal has not raised any specific objections or concerns about the principle of residential development in this location. It merely states that it is within a designated rural area outside the village and does not elaborate further on this matter.
8. Accordingly, within the context of the Council's reason for refusal, the main issue is the effect of the development on the character & appearance of the area and the setting of nearby listed buildings.

Reasons

Appeal site context

9. The appeal site is located on the south-western outskirts of the village and forms part of a larger field enclosed by mature hedgerows used for grazing by livestock. It lies adjacent to 'Frindles', a substantial 2-storey house of a traditional architectural style and opposite 'The Granary' and 'Little Cheverells', two traditional dwellings of differing architectural styles also set on substantial plots, each with their own vehicular access points. According to the Council, both of the latter two dwellings are listed ('the two listed dwellings').
10. A smaller dwelling known as 'Cheverells Cottage' also lies opposite the appeal site on a more modest sized plot, but this appears to be physically attached to Little Cheverells and its character suggests that it may be/have been an ancillary cottage forming part of the overall estate to the latter property.
11. A small area of informal grassland called Cheverells Green lies between the appeal site and the vehicular highway on Pickford Road. This makes a significant contribution to the character of the area and is designated as a Local Wildlife Site. The appellant also states that it has common land status and that an application to deregister this would be made if the scheme is approved. There also exists a right of way adjacent to the appeal site.
12. As Pickford Road extends further into the village from the appeal site, the area becomes characterised by large post-WWII detached dwellings of varying architectural styles set well back from the road on substantial plots with mature trees & hedgerows and individual vehicular access points to dwellings (some with in-and-out driveways). I therefore agree with the appellant's Landscape & Visual Impact Assessment ('LVIA') which states that the area has a settled character that is stronger closer to Markyate with a more relaxed rural character away from it.
13. Overall, I found the immediate environs of the appeal site to have a clear rural character, being on the edge of the settlement where the prevailing built form thins out with large properties set on spacious and substantial plots, and where attractive common land and open countryside dominates. This contrasts with the more built-up part of Pickford Road extending further into the village which has a more suburban character.

Character and appearance and the setting of nearby listed buildings

14. The appellant states that the indicative layout shows how 4 houses could be sited to follow the surrounding pattern of low density linear development on Pickford Road, with a shared drive behind the existing hedge and the creation of a strong frontage picking up the existing building line. They have also confirmed that the scheme would be no more than 2-stories in height.
15. Although the scheme is in outline form only with all matters reserved other than access, in view of; (a) the above design justification by the appellant; (b) the wide frontage and limited depth of the appeal site behind the access road; (c) the position of the point of vehicular access and road layout within the site; and (d) the additional plan supplied by the appellant revealing the position of the replacement common land & adjacent ecological pond, it is my view that the only logical layout that could be achieved is housing development fronting onto Pickford Road in a linear formation in the manner described and justified by the appellant. As a consequence, my assessment of the scheme has been based on this indicative layout and I have used it as a general guide to the likely design outcome at reserved matters stage if the scheme was approved.
16. At a localised level, the natural countryside appearance of the appeal site, its mature vegetation and the informal common land to its frontage make an important and positive contribution to public views from Pickford Road and the character of this edge of settlement location. However, within the wider landscape, I agree with the appellant's LVIA that the development would be well-contained, and where any glimpsed views were possible through existing vegetation, that any housing would be seen in the context of the adjacent built form and settlement edge. As a consequence, I agree with the LVIA's findings that the site has a low/medium susceptibility to change, a medium landscape value and a medium landscape sensitivity.
17. Although I am satisfied that the development would have a limited impact from a wider landscape perspective, at a localised level, the resultant narrower plot rhythm and smaller open gaps between buildings in the appeal scheme would contrast with its immediate context, as would the use of a shared driveway to access each of the dwellings. As a consequence, the scheme's higher density would be out of keeping with the immediate local context of large dwellings set on substantial plots. When taken cumulatively with the use of a shared access drive, this higher density would give it a suburban estate-like character that would cause significant harm to the character and appearance of the area.
18. Although the proposed vehicular access has been positioned in the least harmful location from a point of view of protecting the common land and existing hedgerow, it would nonetheless introduce a highly engineered addition to this sensitive location, which would be harmful to its natural rural character. However, if I had been minded to allow the scheme, I am satisfied that it would have been possible to impose conditions controlling the surface and kerb materials to be used in its construction (to avoid the use of pre-cast concrete kerbing and concrete paved blockwork), which would have enabled it to have a more appropriate appearance in keeping with its rural surroundings.
19. Although the appellant has sought to replace the common land that would be lost, the resultant land has been incorporated into a contrived position behind the existing hedgerow and would not fulfil the same visual purpose as the land lost in front of it. I also have significant doubts that it would be used by

members of the public given its lack of visibility and restricted space. However, even if no replacement common land had been provided to offset the driveway, this would not have prevented me from allowing the scheme if a more sensitive density had been achieved on the appeal site that reflects its immediate context.

20. The appellant states that the development would not be easily seen from the public highway because of existing landscaping and its setback. However, it would nonetheless be visible from directly outside the site entrance and from the adjacent right of way, which would intensify the harmful impact described above. However, even if it was not visible, I cannot be certain that the existing landscaping which screens the site would be retained in perpetuity, which would further expose the scheme. In any event, I do not consider the screening of a development by landscaping to be a sound basis upon which to justify an otherwise harmful scheme as this could be repeated too easily and often for all forms of poor quality development.
21. The two listed dwellings and their setting would not be viewed within same context as the appeal proposal which lies some distance away on the opposite side of the road, with intervisibility between the two considerably reduced by existing mature vegetation and other converted outbuildings. As a consequence, I agree with the appellant's Heritage Statement that the scheme would not have any harmful impact on how the listed buildings are experienced visually. I am also satisfied that the significant separation distance between the appeal site and other designated and non-designated heritage assets would ensure that there is no harm to their significance.
22. In support of the scheme, the appellant states that the dwelling is not at risk from flooding and does not fall within a conservation area, the Chilterns AONB, the Green Belt or ancient woodland. They have also referred to the lack of objections by the Council's conservation officer & arboricultural officer and local highway authority, and that there would be no harm to the living conditions of neighbours and that it would provide satisfactory off-street parking. However, none of these factors demonstrate the absence of harm to the character and appearance of the area or remove the need for the development to be of a high quality design.
23. In view of the above, I conclude that the scheme would be harmful to the character and appearance of the area. The proposal would therefore conflict with Policies CS11 and CS12 of the Core Strategy² which collectively seek, amongst other things, to ensure that new development respects the density of an area and integrates with streetscape character.
24. I also find that the scheme conflicts with Paragraphs 130 and 134 of the Framework, which seek, amongst other things: (a) development that is sympathetic to local character; and (b) schemes that maintain a strong sense of place; and (c) the refusal of development that is not well designed.
25. Despite the Council having referred to Policy CS7 of the Core Strategy in its reason for refusal, this is not applicable to the scheme before me as it does not relate directly to the matter of character and appearance for new-build housing in the rural area other than; (a) at Aldbury, Long Marston & Wilstone; (b) on previously developed sites; and (c) the replacement of existing buildings.

² Core Strategy, adopted 25 September 2013, Dacorum Borough Council.

26. I recognise that Policies CS11 and CS12 were not referred to in the Council's reason for refusal, but they were in the case officers report and in the appellant's initial planning application statement. I am as a consequence satisfied that the parties have not be prejudiced by my consideration of the scheme against these development plan policies. However, even if I had not taken into account Policies CS11 and CS12, it would not have altered my viewed that the scheme was contrary to national policy identified in the Framework.

Planning balance

27. Although the Core Strategy is over 5 years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
28. Policies CS11 and CS12 of the Core Strategy are broadly consistent with the Framework insofar as they relate to the main issues of the case and I am satisfied that the proposal conflicts with the development plan when taken as a whole.
29. The appellant has sought to justify the scheme on the basis that the Strategic Housing Land Availability Assessment (SHLAA) concluded the site had capacity for 17 homes. However, this does not in itself mean that a site should be allocated for development - it is for the development plan itself to determine which sites identified in the SHLAA are the most suitable. Neither does it mean that the capacity identified would be appropriate following a detailed assessment at the planning application stage. However, I do nonetheless recognise that there is the potential for the site to be developed at a lower density than that shown in the scheme before me that would not be harmful to the character and appearance of the area.
30. The appellant further states that the scheme should be allowed because of a lack of other available sites for growth around Markyate and the wider local area and because it would reduce pressure on other sites within the Green Belt. However, be that as it may, this does not justify the harm I have identified.
31. I recognise the appellant's frustration that the application was the subject of a recommendation for approval from planning officers at the Council and represented a revised scheme following a withdrawn application and pre-application enquiry. Nevertheless, matters such as these do not, in themselves, confer acceptability and I have considered this appeal strictly on its planning merits.
32. The Council and appellant both agree that there is a shortfall in the District's 5-year housing land supply. I have also noted that the delivery of housing was below the housing requirement over the previous three years³. The shortfall in supply means that the Framework's presumption in favour of sustainable development applies.
33. My attention has been drawn to another planning appeal decision by the appellant in which the Inspector concluded that the delivery of two new houses would support the Government's objective of significantly boosting the supply

³ 2021 Housing Delivery Test.

of homes and that this constituted a public benefit attracting additional weight given a shortfall in the Council's supply of housing land⁴. I agree with this conclusion and recognise that there is a significant shortfall in the Council's 5-year housing land supply in this case and that the scheme would make a small, but meaningful contribution to this. I also agree with the appellant that small sites have an important role to play in housing delivery. As a consequence, I have given this benefit additional weight in my planning balance assessment.

34. The scheme would result in economic and social benefits from; - (a) a quickly-deliverable contribution towards the Council's 5-year housing land supply; (b) a contribution towards the supply of new 3 and 4 bedroom homes which are noted as being in high demand; (c) the use of a small site for housing in short supply for SME builders; (d) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; (e) a net gain in biodiversity; (f) enhanced surfacing to part of the adjacent right of way; and (g) local employment during construction. However, given the small size of the development in terms of housing units, I consider these benefits to be of limited value and that the adverse impacts of the scheme would significantly and demonstrably outweigh these, when assessed against the policies in the Framework when taken as a whole.
35. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this. I also conclude that even if I had not taken into account Policies CS11 and CS12 of the Core Strategy, I would still have determined that other material considerations did not indicate that the scheme should be approved.

Conclusion

36. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR

⁴ Reference No: APP/A1910/W/20/3259756, decision dated 27 April 2021.