
Appeal Decision

Hearing held on 23 August 2022

Site visit made on 23 August 2022

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2022

Appeal Ref: APP/W1850/W/22/3296263

Land at Ramblers Way, Winforton, Herefordshire, HR3 6EP

- 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 Collins Design and Build against the decision of Herefordshire Council.
 - The application Ref 210131, dated 15 January 2021, was refused by notice dated 7 October 2021.
 - The development proposed is for the residential development of seven dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal seeks outline permission with all matters reserved except for access and layout. In so far as the submitted plans and drawings show details of matters other than the access and layout, I have treated those as being purely illustrative.

Main Issues

3. The main issues are whether the location of the proposed development is appropriate when considering Development Plan policies; and the effect of the development on the character and appearance of the area.

Reasons

Location of Development

4. The proposed development is on the western edge of the village of Winforton. The proposed houses would be set behind (to the south of) an existing row of recently built houses which fronts the A438, which is the main road through the village. There is another single dwelling to the west of the site but otherwise it is open countryside to the west. There is also open countryside to the south. To the east is the cul-de-sac of The Vineyards. The site itself is largely undeveloped land bounded by hedgerows to the south and east.
5. Policy RA2 of the adopted Herefordshire Local Plan Core Strategy 2011 – 2031 (the CS) relates to 'Housing in settlements outside Hereford and the market towns'. Winforton is within the rural Housing Market Area of Kington and is within the list of settlements described as being the main focus of

- proportionate housing development. This policy allows for housing growth in or adjacent to those settlements listed, such as Winforton.
6. The site is set back from the A438 on an undeveloped area of land which appeared to be some sort of field or paddock previously. The new houses at the front of the site have urbanised this western edge of the village to some extent, but this would be a further development projecting to the south. In my view, following my site visit, the site is not within the settlement of Winforton, but adjacent to it.
 7. This would still comply with policy RA2, being that the site is adjacent to the village. However, there are also the policies of the Eardisley Group Neighbourhood Plan 2011-2031 (the NP). Policy H2 of the NP sets out in point b) that *"To allow for required development and controlled growth, a settlement boundary is defined for Winforton, as shown on the Winforton Policies Map. Development should take place within this boundary in accordance with relevant policies set out in this Neighbourhood Plan"*. The Winforton Policy Map for the NP clearly shows the site is outside of, but adjacent to, the western edge of the defined settlement boundary. As such, the proposed development would not take place "within" this boundary and so would not accord with this policy.
 8. Although not set by the CS, the supporting text to policies RA2/RA3 at paragraph 4.8.23 states that *"Where appropriate, settlement boundaries (or a reasonable alternative) for those elements listed in Policy RA2 will be defined in either Neighbourhood Development Plans or the Rural Areas Sites Allocation DPD."* As such, it was clearly envisaged with the CS that NPs would come forward with possible settlement boundaries. The setting of a settlement boundary with the NP does not conflict with the CS therefore.
 9. Paragraph 4.8.23 goes on to state that *"Outside of these settlements new housing will be restricted to avoid unsustainable patterns of development. Residential development will therefore be limited to those proposals which meet the criteria listed in Policy RA3."* The criteria for policy RA3 are not met by the proposed development, which is for market housing on an undeveloped site.
 10. Furthermore, policy H5 of the NP seeks to direct housing development in Winforton to within its defined settlement boundary, which is not the case with this proposal.
 11. These policies of the NP controls development from extending outside of the village into its setting. The proposed development would extend the village built form into the countryside. It may be that the site is in a location accessible to local amenities and that the proposed seven dwellings would not cause issues with village infrastructure capacity. However, the proposal is contrary to policies H2 and H5 of the NP, and policies RA2 and RA3 of the CS, for the reasons set out above.

Character and Appearance

12. The site was an open field which has been partially developed with the three houses fronting the A438. The location of the proposed houses remains currently open and undeveloped grassland, akin to the adjacent agricultural land of the countryside.

13. There would be some views from the A438 of the proposed development and the public right of way (PROW) through the site means the housing would be very evident. From these views, especially from the PROW, the development would clearly change the character of the site from open and rural in nature to a more urbanised residential character.
14. The site contributes positively to the rural setting of this village, which would be eroded by the proposed development which would urbanise the site. Developing the site would push the extent of the village built form into what is a mainly undeveloped site that forms part of the rural setting of the village. However, this is mitigated by the low density of the proposed development and the indicative landscaping, which includes retention of hedgerows and the oak tree. The dwellings would be seen against the backdrop of existing housing from some directions. There is also the view through the development which the proposed layout would allow for, albeit a tunnelled view between dwellings rather than the currently more open wide vista.
15. Overall, although the impact is limited, the proposal would not conserve nor protect the character of the site and the rural setting of the village. As such, the proposal is contrary to policy LD1 of the CS, which requires that development protects the setting of settlements, amongst other things.
16. However, in terms of character and appearance issues, it is not clear how the proposal conflicts with policy H7 of the NP, with there being no particular harm as a result of the design of the dwellings themselves with this being an outline application with appearance reserved, for example.

Other Matters – Housing Land Supply

17. Prior to the Hearing the Council published its “Five Year Housing Land Supply (2022 - 2027) Annual Position Statement at 1 April 2022” (July 2022). This was provided to the appellant to comment on. Furthermore, both parties produced a comprehensive list of sites for housing where there is disagreement between the parties on deliverability, with reasons given. This was discussed at length at the Hearing.
18. The July 2022 Statement concluded that the Council could demonstrate 6.19 years worth of housing land supply. However, following discussions with the appellant the Council reduced this to 6.15 years. This remains very different from the appellants conclusion, which is that the Council can demonstrate only a 4.44 years housing land supply.
19. A particular issue is whether housing sites included by the Council are deliverable within the 5 year period, as much of Herefordshire falls within the catchment of the River Wye Special Area of Conservation (SAC). Increased phosphate levels in the River Lugg, which forms a sub-catchment to the River Wye, means that under the Conservation of Habitats and Species Regulations development can only be approved where it can be shown to have a ‘neutral’ effect in terms of phosphate. Many of the sites where the appellant has questioned the deliverability of the housing is due to this issue and the difficulties in proposals demonstrating this phosphate neutrality.
20. The Council has addressed this matter in their July 2022 Statement with the Council providing strategic mitigation projects. These are integrated wetlands in the River Lugg catchment area which the Council is funding. From the

evidence provided, including at the Hearing, the initial release of 'phosphate credits' is available already or shortly. It is apparent that many developers have indicated their willingness to purchase credits to allow their development to come forward.

21. There may be limits to the credits available via the Council mitigation projects. However, this seems likely to be complemented by Natural England's national mitigation schemes, as set out with the Written Ministerial Statement (WMS) on 'Improving Water Quality and Tackling Nutrient Pollution' (20 July 2022). This Statement commented that *"DLUHC will revise planning guidance over the summer to reflect that sites affected by nutrient pollution forming part of housing land supply calculations are capable of being considered deliverable for the purposes of housing land supply calculations, subject to relevant evidence to demonstrate deliverability."* Though the revised guidance has not yet been produced it is clear that the Government approach is to accelerate timescales to provide mitigation.
22. For these reasons, I have not discounted any sites potential for being deliverable within five years on the basis of the need for phosphate neutrality alone. The situation may change in the future, but at this point there is clear evidence that housing completions will begin on these sites within five years and I am satisfied that this is likely to be to the level included in their figures by the Council.
23. For the other sites, I am satisfied from the evidence that most can be considered deliverable within the definition set by the National Planning Policy Framework (the Framework). For the larger Strategic Sites (Strategic urban extensions) the July 2022 Statement has already reduced the numbers of units expected to be delivered, which is reasonable.
24. Overall, it is likely that some of the sites included within the July 2022 Statement may not be deliverable which would result in a housing land supply figure of less than 6.19 years, but importantly I am satisfied that the Council can demonstrate a figure above 5 years land supply of sites. Housing need may grow in the future, but from the evidence before me the 'tilted balance' would not be engaged with this appeal.
25. The appellant has drawn my attention to appeal decision ref: APP/W1850/W/18/3201641 at Land adjoining Courtlands Farm in Winforton. This allowed a development for five dwellings in similar circumstances to this appeal. However, a key difference is that with this 2018 appeal the Council could not demonstrate a 5 year supply of housing land, whereas in this appeal I have concluded it can now demonstrate this. In the 2018 appeal the 'tilted balance' was engaged and the conclusion was that the adverse impacts did not significantly and demonstrably outweigh the benefits. The tilted balance is not engaged with this current appeal case.
26. There is mention within the Council report of the site being within the catchment of the River Wye Special Area of Conservation, but that the proposed drainage would mean there would be no likely impact. If I were intending to allow the appeal based on the main issues set out above I would have sought clarification of this issue and consulted Natural England. In the circumstances I have not pursued this matter.

Planning Balance

27. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I am required to determine appeals in accordance with the policies of the Development Plan, unless material considerations indicate otherwise.
28. In this case the proposal would provide seven dwellings towards housing land supply for the area, in a reasonably accessible location. This is a benefit, even when considering the amount of recent housing development within the village, as there is no cap on what level of housing should be delivered locally. The proposed housing would still provide a housing boost for the wider area with there being no maximum number of dwellings that policies say should be limited to.
29. The bungalow would be a useful inclusion to the housing mix, which seeks to reflect local needs. I also note the sustainable principles that could be included with the proposed dwellings, such as maximising passive solar gains and electric vehicle charging points.
30. There would be economic benefits from the construction of the dwellings, together with the financial boost from future occupiers using local businesses. The proposal could include biodiversity enhancement and the proposal could be considered an efficient use of the site, amongst other potential benefits.
31. There have not been objections from the Council with regard to highway safety or flood risk, but a lack of harm with these matters would be neutral in the planning balance.
32. This development is relatively small and so this limits the potential benefits to a degree. Overall, I would give the benefits cumulatively modest weight.
33. However, the harm I have identified above and the conflict with development plan policies, thereby undermining the plan-led approach to housing delivery, and the limited adverse impact to the landscape character setting of the village, is such that it significantly and demonstrably outweighs the benefits.
34. The determination of this appeal must be in accordance with the development plan unless material considerations indicate otherwise. All things considered, I have no reason to conclude that my determination of this appeal should be made otherwise than in accordance with the development plan.

Conclusion

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

Mr S Rennie

INSPECTOR

APPEARANCES

For the Council:

Mr Adam Lewis – Principal Planning Officer
Mr Stuart Powell – Senior Planning Officer (Policy)

For the Appellant

Mr Russell Pryce (Collins Design and Build)

Interested Parties

Mr Richard Wills
Ms Jane Wills
Mr Philip Edwards