



Appeal Decision

Site visit made on 7 December 2022

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/W3005/W/22/3298079

Land Between 124-183, Wild Hill, Teversal, Nottinghamshire NG17 3JE

- 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 Mr Darren Coxon against the decision of Ashfield District Council.
 - The application Ref V/2021/0902, dated 17 December 2021, was refused by notice dated 7 March 2022.
 - The development proposed is described as "outline planning application for the erection of up to 9 no. dwellings with associated private access driveways (means of access submitted, all other matters reserved)".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with approval sought for access. Layout, appearance, landscaping and scale would be the subject of future applications for approval of reserved matters. Plans were submitted showing the locations of accesses. A proposed layout plan was submitted, but it is clearly described within the evidence as being indicative and I have therefore treated it as such.
3. The Council has suggested that the submission by the appellant of technical reports to address elements of their reasons for refusal is inappropriate as the appeal process should not be used to evolve proposals. Whilst that is true, and a position with which I agree, I do not consider that the submission of these reports seeks to evolve the proposals, merely provide additional detail, which the Council itself sought, on the likely effects of the proposals. I have therefore taken these reports into account in my determination of the appeal and am satisfied that no prejudice or unfairness arises as a result.

Main Issues

4. The main issues are;
 - whether or not the proposal would be appropriate for its countryside location, its character, appearance or openness,
 - whether or not the site is a sustainable location for the development proposed,
 - the effect of the proposal on highway safety,
 - the effect of the proposal on biodiversity, and
 - the effect of the proposal on the historic environment.

Reasons

Location

5. The appeal site lies beyond the main urban areas of the district and is therefore within countryside. Policy ST4 of the Ashfield Local Plan Review, 2002 (the Local Plan) makes clear that in such areas, permission will only be given for sites allocated for development, or development appropriate to the countryside location as set out in other policies.
6. Policy EV2 of the Local Plan sets out development appropriate for the countryside, primarily requiring it to be located and designed so as not to adversely affect the character of the countryside, and in particular its openness. The policy further specifies that infill which does not have an adverse effect on the scale and character of the area does comprise appropriate development.
7. The appeal site, being an undeveloped field, between small groups of residential properties to either side, and very little built form opposite has a very rural, undeveloped and open character, and reinforces the impression of Wild Hill as being within the countryside. To my mind, the occasional dwellings and buildings to the north of the road, and the small groups to the south, on either side of the site, reinforce this rural and open character, as do the long views across the site.
8. I acknowledge the case made by the appellant, that the site is not wholly open, as it is closely related to existing residential development to each side. However, as set out above, I do find that the impression of the site is of it being within open countryside. Development of it, even at the very low density proposed here would therefore harm its openness. It would also fundamentally alter the character of the area, changing from one in which small, dispersed groups of houses sit together within an otherwise open and rural landscape, to one in which a relatively long group of houses lines one side of a road in that same landscape.
9. The appellant has sought to suggest that the site could be considered as an infill plot, which is allowed by EV2 in certain circumstances. I also note the previous appeal which they refer to¹ which in their view establishes that infill generally refers to development between existing built development, such as in this case, to the east and west.
10. I do not disagree with this, nor do I disagree with the comments or conclusions of the Inspector in that case. However, the supporting text to Policy EV2 is clear as to what infill normally comprises in the area. Despite the site having built form on either side, given the policy context, the proposed density and its substantial width, particularly relative to the width of those existing built-up frontages, I do not consider therefore that the appeal site could properly be considered as an infill plot.

¹ Appeal Ref: APP/W3005/W/21/3272071

11. In this, I of course acknowledge that the proposal is in outline, and as such, detailed effects are unknowable and would be the preserve of any future reserved matters applications. However, the outline proposal does set the quantum of development proposed for the site, and it is this, the development of the site, and its effect on its surroundings for the reasons above, which I find unacceptable.
12. As such, I find that the proposal would not be appropriate for its countryside location, having regard both to its designation as countryside and the significant and substantial harmful effects it would have on the openness of the countryside location. It would therefore conflict with Policies ST1, ST4 and EV2 of the Local Plan, which seek, amongst other things, to control and direct the location of growth in the district, particularly in the countryside, as well as policy NP1 of the Teversal, Stanton Hill and Skegby Neighbourhood Plan (2016-31), adopted 2017 (the NP), which seeks to encourage housing development which respects existing character. Although the site and its surroundings are not valued landscapes in the explicit terms set out, I also find that the proposal would conflict with guidance in the National Planning Policy Framework (the Framework) on conserving and enhancing the local natural environment.

Sustainability

13. The Council has expressed concern about the likely accessibility of the site by means other than the private car. I note that there are bus stops along Wild Hill, but at the three closest to the site, there was no obvious sign of them being in active use. The appellant has highlighted the bus services available from the Wharf Lane bus stop, beyond the Chesterfield Road junction to the west of the site. Whilst buses do run from this stop, given its distance from the site and the nature of the route to it, with relatively narrow footways, a bend, and a 50 miles-per-hour speed-limit around that junction, as well as the need to walk past unused bus-stops to get there, I do not consider that bus route to be a viable or practically attractive alternative to the private-car for future residents of the appeal site.
14. In considering this particular issue, I do accept that it is not entirely unusual for housing in locations such as this to be both some distance from existing public transport links, or for it to be largely reliant on the use of the private car for day-to-day activities. However, given the local and national policy imperatives around sustainability, particularly in the case of travel and access, I consider it an important factor in considering the location and accessibility of new housing.
15. Notwithstanding the comments of the appellant around the definition of how the Framework approach to isolated homes in the countryside should be interpreted, the reason for refusal noted the isolation of the site from nearby settlements, their facilities and services. It is plain from the location of the site and what surrounds it, that this is the case. The site does not lie within a settlement or near to services.

16. I agree and accept that development such as this can support facilities and services in other settlements. However, given the driving times, distances and nature of the routes to access those facilities and services, let alone the non-car journey times to access them, I do consider that the proposal, by virtue of its location and relationship to its surroundings would be likely to increase the number of journeys by the private-car and the day-to-day reliance on it.
17. Whilst I acknowledge paragraph 105 of the Framework, I do not consider that taking into account the scale of the site or its rural location allows the development to avoid obligations towards sustainable transport solutions, particularly given the development plan context to the proposal.
18. As a result, I find that the site is not a sustainable location for the development proposed and would therefore conflict with Policy ST1 of the Local Plan and Policy NP1 of the NP. The proposal would also not offer the genuine choice of transport modes as required by the Framework as part of delivering a sufficient supply of homes and promoting sustainable transport.

Highway safety

19. Although the points of access are shown on the drawings, and submitted for approval, the proposed layout of the site is indicative. As such, I find myself unable to give great weight to the assurance of the appellant that each access would serve so few properties as to be considered as a Shared Private Drive with direct access vehicle crossover arrangements, in terms of the requirements of the Nottinghamshire County Council Highway Design Guide.
20. In light of that, I cannot take the comfort that the appellant does with regard to the access arrangements and in particular, the potential for conflict with the use of the Shepherd's Lane junction. In this, I note the concerns of third-parties on this particular point. Connected to this uncertainty over the potential level of use of each access, I find that I am uncertain as to whether or not the proposal would provide safe and suitable access, such that it would have an acceptable effect on highway safety.
21. As such, I find that the proposal would conflict with Policies ST1 and HG5 of the Local Plan, which seek to ensure that proposals do not harm highway safety and that means of access for all are safe and convenient. The proposal would also therefore conflict with guidance in the Framework around promoting sustainable transport by ensuring, amongst other things, no unacceptable impacts on highway safety.

Biodiversity

22. Subsequent to the Council's decision on the application, the appellant has submitted an Ecological Impact Assessment, which addressed the specific comments of the Council and assessed the value of the site and its ability to provide opportunities for species and/or habitats. This assessment considered baseline conditions, impacts and effects on a wide range of flora and fauna, including invasive, non-native species. The Assessment also proposed mitigation measures which could be secured by appropriate condition. Further specific effects could also be controlled during relevant future reserved matters applications.

23. I note the comments of the Council around potential unauthorised removal of hedging, but do not consider that issue has any bearing on this main issue. As a result, I consider that the potential impact of the proposal on biodiversity and habitats has been properly assessed, and effects could be acceptable with regard to the aims of Policy ST1 of the Local Plan and the guidance in the Framework around conserving and enhancing the natural environment.

Historic environment

24. Whilst the Council has referred to potential effects on heritage assets in their decision, they have provided little detail as to any actual effects on significance on any designated or non-designated heritage assets. Nevertheless, the appellant has submitted a detailed assessment of potential effects.
25. As set out in that assessment, I agree that the site has a neutral effect on the setting of the heritage assets identified by the Council, and given the distance from it, surrounding built-form, surrounding vegetation and intervening vegetation and landscape, I find that the proposal would have a neutral effect on their significance. Having given great weight to the conservation of the assets, I find that the proposal would not cause harm to the significance of the heritage assets and find that it would preserve their setting.
26. Accepting then that matters of layout, appearance, landscaping and scale would be the subject of future applications, I am satisfied that the proposal would not necessarily conflict with Policy ST1 of the Local Plan or the aim of the Framework to conserve and enhance the historic environment.

Planning balance

27. There is no dispute between the parties that the Council does not have a five-year supply of housing-land and that the shortfall appears to be substantial. As a result, the test at paragraph 11dii of the Framework is engaged.
28. I acknowledge that there could be benefits from the proposal, not least the provision of housing in an area of a substantial shortfall. I also acknowledge that there could be benefits in terms of support for facilities and services in nearby settlements and local construction expenditure, although there is nothing before me to suggest that this benefit could only arise from this proposal. The delivery of that housing on a site largely free from protective designations is also a benefit.
29. I find that the potential for delivery of development in keeping with the character and appearance of the area and adjoining development, as well as the opportunity for landscaping are not in themselves benefits, as they would be expected of any and all development in any case.
30. In contrast, I have found above that there would be substantial adverse impacts arising from the development, particularly in relation to the location of the site, the effects of the proposal on the character, including openness, of the area, the sustainability of its location, reliance upon the private-car and highway safety matters. These adverse impacts would conflict with policies in the Framework around promoting sustainable transport and achieving well-designed places as well as the headline aim of achieving sustainable development. I also note concerns expressed by the Council and third-parties around making effective use of the land, with regard to the proposed density.

31. To my mind, given the overarching aim of the planning system set out in the Framework, the adverse impacts of the proposal, identified in my reasoning on the main issues above would significantly and demonstrably outweigh the limited benefits set out above. I therefore find that the proposal does not benefit from the presumption in favour of sustainable development set out in the Framework.
32. In reaching this conclusion, I note the adjoining site, which apparently benefited from the presumption in favour of sustainable development in the Framework in gaining planning permission. However, that site had previous planning permission for residential development. It is also smaller in size and by extension, of lesser effect than the proposal before me. I do not therefore consider that it establishes the acceptability of development of the appeal site, nor does it alter my conclusions above, made on the evidence before me, considering the merits of this particular case and the likely effects of this proposal.

Conclusion

33. For the reasons given above I conclude that whilst there are elements of the proposal which do not conflict with the development plan, there are a number of areas of serious conflict with it. As a result, I find that the proposal significantly conflicts with the development plan as a whole.
34. Whilst I have identified that there are material considerations which weigh in favour of the proposal, it does not benefit from the presumption in favour of sustainable development set out in the Framework. I do not find that those material considerations are of sufficient weight to indicate that a decision be taken other than in accordance with the development plan.
35. The appeal should therefore be dismissed.

S Dean

INSPECTOR