



Appeal Decision

Site visit made on 30 March 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Appeal Ref: APP/W1850/W/22/3306614

**Land Adjacent to The Old Kilns, Church Lane, Howle Hill, Ross on Wye
HR9 5SP**

- 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 David Jordan against the decision of Herefordshire Council.
 - The application Ref P204443/O, dated 14 January 2021, was refused by notice dated 11 August 2022.
 - The development proposed is residential development of 5 dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr David Jordan against Herefordshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Notwithstanding the description of development in the heading above, the proposal was amended during the Council's determination period. Therefore I have determined the appeal having regard to the amended proposal for three rather than five dwellings.
4. The proposal was submitted in outline with all matters reserved. I have considered the appeal on that basis and have treated any plans in relation to the reserved matters as illustrative.
5. The planning application was refused by the Council in August 2022. At the time Walford Neighbourhood Development Plan (NDP) had not been submitted for examination and the Council's officer report stated that its policies were afforded limited weight. Following this, the NDP was submitted for examination and the independent examiner issued their report in January 2023. The NDP subsequently received a positive referendum result on 4 May 2023. The main parties were given the opportunity to comment on the progress of the NDP and any comments were taken into account in this appeal decision.
6. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that in determining a planning application the authority shall have regard to a post-examination draft neighbourhood development plan, so far as it is material to the application. In addition, paragraph 48 of the National Planning Policy Framework (Framework) advises that the weight given to emerging plans should accord with its stage of preparation (criterion a.); the

extent of unresolved objections (criterion b.); and the degree of consistency of relevant policies with the Framework (criterion c.). The appellant highlights uncertainty over whether and when the Council's cabinet will meet and confirm that the NDP forms part of the Council's development plan. Nevertheless, the NDP is at an advanced stage and has been subject to a positive referendum result. For the purposes of this appeal I am satisfied that its relevant policies are generally consistent with the Framework. Therefore, having regard to paragraph 48 of the Framework, I afford the NDP considerable weight.

Main Issues

7. The main issues are whether the location of the proposed development is acceptable, having regard to the effect of the proposal on the character and appearance of the surrounding countryside and its accessibility to goods and services and sustainable transport modes.

Reasons

Character and appearance of the surrounding countryside

8. It is not a matter in dispute between the main parties that the appeal site is located within the Forest Smallholdings and Dwellings landscape type (Landscape Type). Key characteristics of this Landscape Type are set out within the Landscape Character Assessment Supplementary Planning Guidance (updated 2009) (SPG). Features of this Landscape Type include an intimate landscape of domestic scale, a dense pattern of smallholdings and wayside cottages separated by small orchards and pasture, and an intimate network of narrow intersecting lanes.
9. Church Lane is narrow with dense mature hedging to either side. In the locality, many houses are positioned adjacent to the road edge giving the appearance of wayside cottages. Whereas some other houses are set back from the road to varying extents. For example, Crown Cottage and The Cider Barn are accessed from a spur of Church Lane. Normansfield is also adjacent to that spur but with its own separate access. These houses appear to be of individual design and layout, within irregular shaped plots, many of which appear generously sized. Rather than appearing as part of a planned housing development, the layout and placement of such houses appears varied and ad hoc, befitting the rural character of their surroundings. The appeal site is part of an area of pasture that separates built development to either side. As such, from the appeal site access gate it can be seen to form part of a visible gap between Squirrels Leap and Old Kilns. Therefore, although there will be some variation in landscape character within this Landscape Type, the appeal site and surrounding area demonstrate a number of its characteristic features.
10. Policy RA2 of the Herefordshire Local Plan Core Strategy 2011-2031 (October 2015) (Core Strategy) supports sustainable housing growth in or adjacent to certain settlements, including Howle Hill. The policy permits housing proposals where criteria 1 – 4 are met. This includes that proposals demonstrate particular attention to the form, layout, character and setting of the settlement (criterion 1). Also that proposals should be appropriate and make a positive contribution to their setting (criterion 3).
11. The proposed development would occupy a considerable proportion of the gap between Old Kilns and Squirrels Leap, thus reducing the extent of open

pasture. However, a reasonably large area of that pasture would remain undeveloped, outside of the appeal boundary, extending from the boundary with Church Lane up to the rear of Old Kilns and beyond. Therefore a visible gap of not insignificant size would remain. As such the reduced size of the pasture would not, of itself, appear at odds with the character of the surrounding landscape. I note also that the SPG advises that small plots of pasture are a feature of this Landscape Type.

12. Whilst only illustrative, the proposed layout plan (Ref 101D, for example) shows a relatively uniform layout for the three houses, positioned to a broadly consistent building line. Notwithstanding space for landscaping at the front of the site, and that the scheme was supported in the Council officer's report, the illustrative scheme shows built form extending close to both sides of the site. The Council officer's report and the appellant consider the scheme shows sufficiently large plots and spacing between the proposed dwellings. However in the context of this site and its surroundings, where there is a prevalence of more ad hoc layouts, irregular shaped plots and wayside cottages, I find that such a layout would appear unduly suburban and thus have an urbanising effect.
13. Given the proposal is submitted in outline with all matters reserved, alternative layouts could be achieved. However such alternatives would be required to accommodate three houses and their private gardens and accesses within the boundary of the approximately square shaped appeal site. Within the constraints of the site and given that three dwellings are proposed, options for sufficiently different layouts to the submitted illustrative layout would be highly limited. Consequently it appears highly likely that alternative layouts would result in a similarly uniform and urbanising scheme.
14. Even accepting that each house could be of an individual design and of a palette in keeping with local housing, rather than achieving a suitably ad hoc, organic scheme, the uniformity of the layout would appear out of place in this context. No substantive evidence is before me to indicate otherwise. I note also that the SPG identifies increasing urbanisation as the most significant threat to this Landscape Type. Accordingly criteria 1 and 3 of Policy RA2 have not been satisfied.
15. I accept that opportunities for use of alternative brownfield sites are likely to be limited at Howle Hill (criterion 2), and it is likely that the proposal could deliver housing of a size or type that would meet a particular local need (criterion 4). Nevertheless, given the conflict with criteria 1 and 3 the proposal would conflict with Policy RA2 of the Core Strategy as a whole.
16. Policy RA3 of the Core Strategy applies to proposals in rural locations, outside of settlements, as defined in Neighbourhood Development Plans or a Rural Areas Site Allocations DPD. In this instance, with reference to the Walford NDP, the site is outside of the settlement boundary. Furthermore, even in the absence of the settlement boundary as defined in the NDP, the appeal site's location on pasture land appears outside of the main built up form of the settlement. As such, Policy RA3 is relevant here.
17. Policy RA3 requires that such proposals address one or more of the policy criteria. The proposal is not advanced as one that meets agricultural, forestry, farm diversification or rural enterprise needs. It is not a replacement dwelling, re-use of a disused building, or a rural exception site. It is also not submitted

as one that would be of exceptional quality or innovative design. Further, it would not provide for the needs of gypsies or other travellers. Therefore none of the Policy RA3 criteria would be met. The appellant considers that Policy RA3 of the Core Strategy is not relevant due to the proposal's compliance with Policy RA2. However, in light of my conclusions on the proposal's conflict with respect to Policy RA2, Policy RA3 remains relevant.

18. Within the NDP, the site is outside but adjoining the settlement boundary. Objective 3 (i) of the NDP sets out that housing will be delivered on small sites within or adjacent to built-up areas, including Howle Hill, subject to consideration of factors such as their character and any constraints. In light of the harm to the surrounding landscape character identified above, the proposal would not accord with this objective. In any event, development proposals must also be determined with reference to the specific wording of development plan policies.
19. Policy WALF2 of the NDP sets out the development strategy which includes supporting housing growth within defined settlements. It confirms that outside of settlement boundaries, housing development should comply with Policy RA3 of the Core Strategy. As reasoned above, the proposal is not submitted as one that would meet any of the Policy RA3 criteria. Consequently the proposal would also be contrary to Policy WALF2 of the NDP. Policy WALF20 of the NDP supports sensitive housing development within the settlement boundary. It further seeks to retain the gaps between the clusters that form the settlement. Given the site's location outside, but adjoining the settlement boundary for Howle Hill, the proposal is not supported by Policy WALF20.
20. Policy WALF4 of the NDP deals with measures to protect and enhance landscape character within the parish. This includes a requirement for proposals to ensure relevant features of the landscape character type are protected (criterion c). Accordingly, due to the number of houses proposed relative to the appeal size and the uniformity of the layout of the built development that would likely result, I conclude that the proposal's urbanising effect would fail to conserve, restore or enhance key features of this landscape character, contrary to criterion c.
21. There is potential for the proposal to accord with criterion a., e., f. and g. addressing landscaping and trees. Criterion b. is of limited relevance as it deals primarily with effects on the AONB which I consider is not an issue here. Criterion d. is also not relevant, relating to the River Wye. However, due to the proposal's conflict with criterion c., and the associated harm to landscape character, it would conflict with this policy as a whole.
22. Concluding on this main issue, the location of the proposed development is not acceptable, having regard to the effect of the proposal on the character and appearance of the surrounding countryside. As such, it would conflict with Policy LD1 of the Core Strategy which, amongst other matters, requires that applicants demonstrate that the character of the landscape has positively influenced the proposal. For the reasons given, it would conflict with Policies RA2 and RA3 of the Core Strategy. It would also conflict with Policies WAL2, WALF20 and WALF4 of the NDP.
23. In addition, the proposal would be contrary to paragraph 130 of the National Planning Policy Framework, which requires that proposals are sympathetic to local character. Furthermore, as the proposal would not achieve good design it

would fail to satisfy paragraph 126 of the Framework which confirms that good design is a key aspect of sustainable development.

Accessibility to goods and services and sustainable transport modes

24. The Council's reason for refusal references the site's rural location which is considered to lack local services and goods, and connectivity to nearby facilities by sustainable transport modes. However, in the Core Strategy, Howle Hill is identified as an 'other settlement' that is suitable for a proportionate level of housing (Figure 4.15). Whilst service provision in the locality may have altered since the adoption of the Core Strategy, no substantive evidence is before me to indicate that facilities are so changed that it is no longer suitable for some level of housing growth.
25. The appeal site adjoins the NDP settlement boundary for Howle Hill on two sides. Therefore in the circumstances of this case, there would be little to distinguish the accessibility of the appeal site by non-car modes from a nearby site within the settlement boundary. I note the appeal decision at Waters Edge, Sharman Pitch (Ref APP/W1850/W/21/3271693) also at Howle Hill and a short distance from the site. In that decision the site was considered to be previously developed, with an existing baseline level of vehicular comings and goings. Nevertheless, the Inspector found that development of nine dwellings was acceptable in that similarly rural location, in part due to the site's proximity to services and facilities in Walford as well as slightly further afield in Ross on Wye.
26. No specific policy is referenced in relation to this main issue. However, paragraph 79 of the Framework supports housing in rural areas where it would enhance or maintain the vitality of rural communities. Also, that development in one village may support services in a village nearby. Therefore I conclude that, in the circumstances of this case, the location of the appeal site is acceptable for the proposed development, having regard to its accessibility to goods and services and sustainable transport modes. Consequently, I am satisfied that the proposal accords with paragraph 79 of the Framework.

Other Matters

27. The appeal site is said to be within the River Wye Special Area of Conservation (SAC). SACs are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended). Policy SD4 of the Core Strategy seeks to ensure proposals do not undermine water quality targets and avoid adverse effects from wastewater discharge into SAC designated rivers. The Council considered that the proposal would be likely to result in significant effects on the SAC, but that such adverse effects could be avoided or mitigated through implementation of a suitable foul and surface water management system. I note that Natural England was consulted and agreed with the Council's conclusions in that regard. In any event, as the appeal is being dismissed for other reasons there is no need to consider this matter further.
28. Small sites can make an important contribution to housing supply and can be built-out relatively quickly. The proposal would achieve a small increase in housing supply in support of the Government objective of boosting the supply of homes. There would be small economic advantages of construction of the proposal which would be short term and further modest benefits from occupation of the dwellings and associated spending in the locality. The

proposal could be designed to incorporate biodiversity enhancements, albeit evidence in this regard is limited.

29. I note that letters of support were submitted during the Council's determination of the application which I have taken into account. Nevertheless, the support for new housing to meet the needs of the community, including in the Framework, should not be at the expense of ensuring that the development is capable of being appropriately designed and integrated suitably with its surroundings.
30. Whilst the indicative layout and reduced number of houses proposed in comparison to the original submission may have been seen as an improvement by the Council, my assessment is based fairly on the evidence before me.
31. As noted in Preliminary Matters above, the policy position has evolved since the Council determined the application. It is not unusual for the status of emerging policy documents to evolve during the course of the determination period, including at appeal. Furthermore, in light of the conflict with policies in the Core Strategy arising from harm to the character and appearance of the surrounding countryside, the outcome of the appeal would be unaltered even if the weight to be applied to the NDP had remained very limited.

Conclusion

32. Therefore for the reasons given above, the proposal would fail to accord with the development plan and there are no material considerations, including the Framework, that would indicate planning permission should otherwise be granted. The appeal should therefore be dismissed.

Rachel Hall

INSPECTOR