



Appeal Decision

Site visit made on 31 May 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 June 2023

Appeal Ref: APP/W1850/W/22/3304330

Land at The Meadows, Eardisley, Herefordshire HR3 6PP

- 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 & Mrs Gregory Harwood against the decision of Herefordshire Council.
 - The application Ref 220509, dated 15 February 2022, was refused by notice dated 13 July 2022.
 - The development proposed is resubmission of outline planning permission reference 202174 for 10 dwellings, access and estate road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the Council's Decision Notice, which describes this more succinctly than the application form. I am satisfied that no parties would be prejudiced as a result.
3. The planning application is in outline with all matters reserved. Therefore, although plans showing the possible layout, scale and design of the proposal have been provided, I have treated these plans as being only illustrative.

Main Issues

4. The main issues are:
 - whether the proposal would be an appropriate location for housing, having regard to the strategy of the Development Plan, and
 - whether the proposal should make provision for infrastructure, in particular for affordable housing.

Reasons

Appropriate Location for Housing

5. Policy RA2 of the Herefordshire Local Plan Core Strategy (HLP), adopted October 2015, sets out the Council's strategy for housing in settlements outside Hereford and the market towns. To maintain rural communities across the rural parts of the county, it supports sustainable housing growth within or adjacent to identified settlements, including Eardisley. In rural locations outside of settlements, as defined by Neighbourhood Development Plans, HLP Policy RA3 limits residential development to types that do not include the proposal.

6. The Eardisley Group Neighbourhood Development Plan (NP) was made in June 2016. NP Policy H2 seeks to allow for controlled growth, and to protect the surrounding countryside from development. As such, it makes clear that new homes outside of the defined settlement boundary will only be permitted in circumstances that do not apply to the proposal, such as for rural exception dwellings.
7. NP Policy H1 identifies that, as a primary location for growth, a minimum of 45 dwellings should be delivered within Eardisley itself for the period to 2031. Only two houses have so far been delivered within the village since the NP was made, and an allocated site for at least 25 units¹ is now likely to deliver very few dwellings. Even so, taking into account dwellings delivered at other villages, together with planning permissions and allocations, the Eardisley Group covered by the NP is on course to meet its housing target by 2031. As such, I do not accept that the NP has failed to deliver sufficient housing or that its policies should therefore be given less than full weight.
8. The village is the largest settlement in the NP area and has a range of services and facilities. Furthermore, the site is reasonably well related to the built-up part of the village and is adjacent to the NP settlement boundary at various points. However, the site consists of open, greenfield countryside that is outside of the defined boundary, and which the NP therefore seeks to protect from development.
9. The location of the proposal adjacent to a settlement means that in principle it would accord with HLP Policy RA2. However, its location outside of the settlement boundary means that the proposal would conflict with HLP Policy RA3. It would similarly conflict with NP Policy H2, a policy which post-dates HLP Policy RA2 and is more focused in its application. As such, I give greater weight to the conflict with NP Policy H2 and so I find that the proposal would conflict with the development plan when read as a whole.
10. For the reasons given above, the proposal would not be an appropriate location for housing, having regard to the strategy of the Development Plan. It would therefore be contrary to NP Policy H2 and HLP Policy RA3. For similar reasons, the proposal would also conflict with the National Planning Policy Framework (the Framework), that planning decisions should recognise the intrinsic character and beauty of the countryside.

Affordable Housing and Infrastructure

11. HLP Policy H1 requires that all new open market housing proposals on sites of more than ten dwellings should contribute towards meeting affordable housing needs. The policy also refers to supplementary guidance, currently the Affordable Housing Supplementary Planning Document (SPD), June 2021. This makes clear that Policy H1 will also apply where the site has been sub-divided to avoid the application of the policy in respect of the number of units.
12. The description of the proposal is for ten dwellings and so below the policy threshold. However, it is a re-submission of an earlier refused scheme for 17 dwellings² (the previous application), which encompassed land either side of the indicative entrance road now proposed. These parcels of land remain within

¹ At Barley Close in Eardisley

² LPA reference 202174

- the ownership of the appellant, but they are not included in the proposed site envelope.
13. The appellants state that these areas were removed for density reasons. The density of the current proposal may well reflect that of the nearby Eardisley Conservation Area and land allocated for housing in the village under NP Policy H4(c). However, it does not follow that development of the site including the adjoining parcels of land could not also achieve an acceptable level of density.
 14. The parcels of land were also removed to reduce the impact of development on highway safety, and to avoid overlooking of adjoining gardens. The possible need for a wildlife corridor has also been referred to. However, I have little reason to believe that adequate privacy to the gardens could not be achieved by means of a suitable layout and design. Nor is there clear evidence before me to suggest that wildlife requirements or concerns during the previous application regarding highway safety would necessarily prevent development of more than ten dwellings by using these parcels of land.
 15. Instead, by leaving the areas towards the front of the site undeveloped, the proposal would result in a less than efficient layout which would fail to maximise the use of the land, had I reached a different conclusion on the first main issue. I understand that a potential local developer may be unwilling to develop more than ten dwellings here for financial reasons, but I have little evidence to suggest that other developers would not come forward, or that the wider site has viability constraints.
 16. The appellants now intend to use these parcels of land for longer gardens to serve adjoining dwellings, meaning that they are not available for housing. However, such an argument could be repeated often elsewhere, with the risk of undermining the Council's affordable housing policy and its delivery. Moreover, I have little substantive evidence to support this intention, for example confirmation that planning permission has been granted for the garden extensions. For these reasons, I am not convinced by the justification for the proposed site envelope.
 17. Apart from affordable housing, I have been provided with little clear information to suggest a specific need for provision towards other types of infrastructure, service, or facility, that would be circumvented by the proposed site boundaries. However, for the reasons given above, the proposal would not make adequate provision for infrastructure, in particular for affordable housing. I reach this conclusion regardless of whether the calculation of the affordable housing provision should be based on all of the proposed units, or should exclude self-build properties, as suggested by the appellants.
 18. As such, the proposal would be contrary to HLP Policy H1, to NP Policy H3 which makes similar requirements for affordable housing, and to the SPD. It would also conflict with HLP Policy ID1, which requires provision for infrastructure to support sustainable communities, including affordable housing.
 19. For the same reason, the proposal would fail to provide a suitable mix of types of housing, and so would not meet HLP Policy RA2 or NP Policy H7. I have found that the site envelope as proposed would not make an efficient use of land, and so it would not accord with HLP Policy SD1. For similar reasons, the

proposal would also conflict with the aims of the Framework including for the provision of affordable housing and the effective use of land.

Other Considerations

20. The Framework seeks to significantly boost the supply of housing. The proposal would make a positive contribution to the supply of housing, on a site that can be delivered quickly. Future occupants of the proposal would make a positive social and economic contribution to the village, as would its construction economically. The proposal includes self-build units, for which I understand there is a need locally.
21. However, whilst not a cap or a ceiling³, there is no dispute that the Council can now demonstrate a supply of housing land in excess of five years. As such, the tilted balance at paragraph 11 of the Framework is not engaged. As a result, housing land supply and the proposed provision of self-build accommodation does not provide sufficient reason for me to reach a decision other than in accordance with the Development Plan.
22. I have borne in mind the appeal decision at Courtlands Farm, Winforton⁴, which considered similar issues to the proposal. I do not know the full details of that case, but it was made at a time when the Council was unable to demonstrate a five-year supply of housing land. It also pre-dates adoption of the SPD. As such, the planning circumstances have now changed, so I can give this decision little weight.
23. The site lies within the catchment area of the River Wye Special Area of Conservation (SAC), protected pursuant to the Conservation of Habitats Regulations 2017 as amended. Had I found no harm in respect of the other issues, as competent authority I would have carried out a Habitats Regulations Assessment in respect of the potential effects of the proposal on the SAC. However, as I have found against the appellants on other substantive grounds, this matter need not be considered any further in this case.

Planning Balance and Conclusion

24. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR

³ As confirmed in appeal APP/L3245/W/21/3288834

⁴ APP/W1850/W/18/3201641