



Appeal Decision

Site visit made on 2 November 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2023

Appeal Ref: APP/Y3940/W/23/3320815

Land at Bypass Barn, Burbage, Marlborough, Wiltshire SN8 3FU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr and Mrs D Smith against the decision of Wiltshire Council.
 - The application Ref PL/2022/08682, dated 8 November 2022, was refused by notice dated 9 January 2023.
 - The development proposed is Permission in Principle for residential development of 1 no. dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of net dwellings as part of the application. In this instance, permission in principle has been sought for the erection of a maximum of one dwelling at the appeal site. For the avoidance of doubt, I have determined the appeal on that basis, having regard to the requirements of the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 and the PPG.

Main Issues

5. The main issues are whether the location, the proposed land use and the amount of development is suitable with particular regard to:
 - Whether the principle of the proposed development would provide a suitable location for housing, having regard to the development strategy for the area and to the accessibility of services and facilities;

- whether the principle of the proposed development would harm the character and appearance of the area, including whether it would conserve and enhance the landscape and scenic beauty within the North Wessex Downs Area of Outstanding Natural Beauty (AONB); and
- the effect of the principle of the proposal on the River Avon Special Area of Conservation (SAC).

Reasons

Suitable Location

6. The appeal site relates to a parcel of land situated off the A346, which runs to the west of the village of Burbage. Burbage has a defined settlement boundary, set out in the Wiltshire Core Strategy (Core Strategy) (adopted 2015). However, the appeal site lies outside of the settlement boundary, disconnected from the village by fields and the A346. Therefore, the proposal would represent a new dwelling in the countryside. The proposal does not fall within any of the exceptions set out by the development plan to enable new development in the open countryside and it would not be supported by any other policies. As such, it would be contrary to the development strategy for the area.
7. Burbage has some day-to-day facilities including a petrol station (with a post office), a public house, a surgery and primary school. Whilst the distances to these facilities may not be overly prohibitive, there is no footpath between the site and Burbage, and there is no street lighting. Future occupants of the proposal would be largely reliant on the private vehicle to access services and facilities. This lack of accessibility to enable future occupants to carry out day to day activities demonstrates that the site would be an unsuitable location for the proposal.
8. Whilst the A346 has a wide grass verge, I noted that the verge was overgrown. Therefore, I am not convinced that the grass verge would represent a safe environment for pedestrians, especially the less physically capable, disabled residents and people with children. Furthermore, the A346 is subject to a speed limit of 60mph, therefore it would not be appealing to walk or cycle alongside. Whilst the roads within Burbage itself have a footpath, with street lighting more common, this would not make up for the unsuitable nature of the A346.
9. The appellant has drawn my attention to the bus services that serve Burbage, but I have not been provided with any timetables. Based on the timetable at the bus stop along High Street which I observed on my site visit, I am not convinced that the bus service would represent a convenient alternative to the car. Whilst paragraph 105 of the National Planning Policy Framework 2023 (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, I have found that there are limited sustainable transport solutions applicable to the appeal site.
10. Consequently, the proposed development would not provide a suitable location for housing, having regard to the development strategy for the area and accessibility to services and facilities. It would conflict with Core Policies 1, 2, 60 and 61 of the Core Strategy. Amongst other things, these policies, in combination, direct growth and new housing to the most suitable and sustainable locations and resist new homes in the countryside except in certain

circumstances. They also encourage planning developments in accessible locations in order to reduce the need to travel, particularly by private car and to promote sustainable transport alternatives to the use of the private car.

Character and Appearance

11. The appeal site is relatively flat and enclosed, situated within the North Wessex Downs AONB. It is currently used for equestrian use, with the presence of small stable buildings, 2 larger barns and a riding arena on the wider holding owned by the appellant. The appeal site still provides a relatively unspoilt site, notwithstanding its equestrian use. It contributes positively to the rural setting of the village due to the equestrian use being small scale and an appropriate use for its rural location. These characteristics all contribute positively to the established rural landscape character and appearance of the area and the scenic beauty of the AONB. The presence of the A346 to the east of the site marks a clear differentiation between the built up form of Burbage on the opposite side of the A346 and the more open, rural landscape setting to the west, where the appeal site is located.
12. Whilst the size and scale of the proposal are not yet known, the proposed development would introduce a single residential dwelling on to the appeal site. The principle of introducing residential development on to the site would be incongruous within its immediate rural landscape. The proposal would harm the character and appearance of the area, permanently eroding the positive contribution the appeal site makes to its rural character. The proposal would therefore fail to conserve and enhance the scenic beauty of the landscape within the North Wessex Downs AONB.
13. The dwelling would be set back from the A346 and would not be readily apparent in public views because the existing barns and the established landscaping along the A346 would obscure views. However, paragraph 176 of the Framework requires great weight to be given to conserving and enhancing the landscape and scenic beauty of the AONB, and that the scale and extent of development within the AONB should be limited. Therefore, the apparent lack of visibility from a particular public view does not negate the harm I have identified above.
14. A dwelling on the appeal site would be seen in the context of the larger barns on the site, so the physical location would not be a new isolated home in the countryside, something that paragraph 80 of the Framework seeks to avoid. Nevertheless, due to the enclosed nature of the site, it would not easily be seen in the context of the other small clusters of buildings close to Burbage, notably the complex of buildings at Harepath Farm and Westcourt Farm.
15. I note that the rear of the properties along the High Street would be visible from the vehicular entrance to the site, across the open fields on the opposite side of the A346. However, these are clearly seen as part of the built up form of Burbage within its settlement boundary. The open fields which lie directly to the rear of High Street forms part of the rural setting of Burbage, which continues on to the other side of the A346 where the appeal site lies. Consequently, the proposal would not be well related to the village itself due to the A346 providing a clear separation.
16. For these reasons, I conclude that the proposal would harm the character and appearance of the area, failing to conserve and enhance the landscape and

scenic beauty of the North Wessex Downs AONB. The proposal would be contrary to Core Policies 51 and 57 of the Core Strategy which, in combination, amongst other criteria, requires development to protect, conserve and enhance landscape character and the landscape setting of settlements, and to enhance local distinctiveness by responding to the value of the natural environment, relating positively to its landscape setting. Core Policy 51 also repeats the requirement of the Framework that great weight will be afforded to conserving and enhancing landscapes and scenic beauty in AONB's.

River Avon SAC

17. The appeal site falls within the catchment of the River Avon SAC. The Council advises that developments within the river catchment have the potential to contribute to the elevated phosphorous through foul water discharges from sewage treatment works and package treatment plants, causing the river to be in an unfavourable condition. Residential development has potential to cause adverse effects alone or in combination with other developments through discharge within the river catchment of phosphorus in treated wastewater.
18. The Council state that because the site has not been allocated for housing development, it would not be covered by the phosphorous mitigation strategy, which would offset all planned residential development. The development would thus lead to adverse impacts on the River Avon SAC. The appellant considers that the matter of phosphate neutrality is something that can be addressed at Technical Details Consent stage.
19. Had I been minded to allow the appeal, I would have sought more information on this matter. However, given my conclusion on the main issues, it is not necessary or appropriate for me to do so as I do not need to carry out an Appropriate Assessment as required under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I do not need to consider the matter any further.

Other Matters

20. It is common ground between the parties that the Council is unable to demonstrate a five-year housing land supply. Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development. In respect of paragraph 11(d) of the Framework with regard to decision-making, this means that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (including applications involving housing where the Council cannot demonstrate a five-year housing land supply), permission should be granted unless (i) the application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 confirms that this includes the policies of the Framework concerning AONB's.
21. The harm to the AONB that I have identified above gives rise to conflict with specific Framework policies, most notably paragraph 176, which states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's and that the scale and extent of development in AONB's should be limited. Accordingly, the presumption in favour of sustainable development does not apply to this appeal.

22. There are some benefits with the proposed scheme, such as the provision of a new home for a local family, which would contribute towards the housing undersupply, boosting the housing supply as required by the Framework. The proposal would also have some economic benefits, with future occupants contributing to the local economy and continued viability of services in the local area and beyond. I also note the lack of harm on the historic environment. However, I can only attach limited weight to these benefits given that the location of the proposal would be poor in terms of access to services and the harm to the character and appearance of the area, most notably the North Wessex Downs AONB.
23. I note that paragraph 38 of the Framework outlines the need for local planning authorities to approach decisions in a positive and creative way. This includes using the full range of planning tools available, including permission in principle, and to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. However, given my findings on the main issues above, the proposal would harm the social and environmental conditions of the area, due to the poor access to services and the harm to the character and appearance of the area.
24. Finally, the appellant has drawn my attention to another appeal decision¹, where permission in principle was granted for a single dwelling in the same AONB and outside of any defined settlement in the development plan. I do not have the full details of what was before this Inspector. However, from the relevant decision notice, I note that the Inspector specifically notes that the appeal site in this case was previously developed land, and that the site did not make a positive contribution to the wider character and appearance of the area and the AONB. These are notable differences to the appeal proposal before me now. I have considered this appeal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

25. The development conflicts with the development plan as a whole. There are no material considerations, including the approach of the Framework and that are worthy of sufficient weight, that would indicate a decision otherwise than in accordance with it. The appeal is therefore dismissed.

Laura Cuthbert

INSPECTOR

¹ APP/Y3940/W/21/3266427