



Appeal Decision

Site visit made on 17 October 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2023

Appeal Ref: APP/A2470/W/23/3320461

Land On The North Side Of Whitwell Road, Empingham, Rutland LE15 8PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jon Gibbison, of Hereward Homes Ltd, against the decision of Rutland County Council.
 - The application Ref 2022/1462/FUL, dated 21 December 2022, was refused by notice dated 15 February 2023.
 - The development proposed is two new stone dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located adjacent to a cemetery to the west, which includes a war memorial that is Grade II Listed. Under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I am obliged to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In this instance the Council has raised no fundamental objections to the development and the effect or otherwise on the setting of the war memorial, and I see no reason to disagree in consideration of the development and the context of the site.

Main Issue

3. The main issue raised by this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is located on the northern side of Whitwell Road, in between a small cemetery and a pair of semi-detached dwellings. The site forms a small parcel of agricultural land, slightly elevated above the road, on the edge of the village of Empingham. A timber field gate provides access to the site, along with a Bridleway, E216, which is set back from the road by a deep, grassed highway verge. A mature hedgerow and gas pumping station are located on the front boundary.
5. The site acts as a transition between the village and the countryside beyond, with its attractive and open rural character, particularly to the north and south. The residential properties to the east front Whitwell Road, on both sides and are varied in size, style, and appearance.

6. The proposed development is for two detached 2-storey dwellings, constructed with stone walls and a slate roof. The proposed dwellings would each have a detached double garage and off-street parking and turning areas to the front, accessed via a shared driveway. A large garden area for each of the dwellings is proposed at the rear. The proposed development would maximise the site which has an irregular shape, being narrow at the front and wider at the rear, with an angled rear boundary. The site is also constrained by the gas pumping station on the site frontage and the Bridleway to the east.
7. The parties have drawn my attention to a recent planning permission on neighbouring land, reference 2021/0951/FUL, for the demolition of 15 and 17 Whitwell Road, a pair of semi-detached dwellings, and the construction of two detached dwellings and garages. I have been provided with a copy of the approved plans which show two large, detached stone built dwellings that would be easily accommodated within the site so that they would be parallel to and front Whitwell Road. In contrast, the proposed dwellings of the appeal scheme would not be parallel to the road, instead they would be set on an angle so that they can be accommodated on the site, due to their large footprints and the limited width and irregular shape of the site.
8. The orientation of the proposed dwellings would not respond to the existing pattern of development along Whitwell Road, which has dwellings that are parallel to the road. Therefore, the orientation of the proposed dwellings would be unusual within the context of the uniform pattern of development along the road. The angle of the proposed dwellings would also emphasise the scale of the proposed development within the plot, which would appear discordant and contrived.
9. I acknowledge that the proposed dwellings would be set back from the road and the high hedgerows on the front and side boundaries would soften views from certain main vantage points. However, due to the scale and form, along with the elevated nature of the site which slopes upward from the road, the proposed dwellings would still be prominent within the landscape. Furthermore, the scale of the proposed dwellings, in particular the large footprints, would result in plot 1 being built close to the western boundary. Therefore, the gable wall of plot 1 would extend a large proportion of the western boundary, as would the rear wall of its detached garage, which, despite the tall hedgerow, would still result in built development close to the boundary with the cemetery. This relationship would result in harm to the views from within the cemetery and wider views from the west.
10. The appellant sets out that the site has previously been put forward for a proposed development of 5 dwellings, as part of the now discarded Local Plan. It formed part of the Council's Site Allocations Assessment; January 2021 and the appellant believes that this demonstrates that a development of that scale would therefore not be harmful to the character and appearance of the area. However, I have limited information before me and nevertheless the appellant accepts that the previous local plan has been discarded. Consequently, as I am required to do, I have determined the case before me on its own merits.
11. For the collective reasons outlined above, the proposed development would be harmful to the character and appearance of the area. Therefore, the proposal would fail to accord with Policy CS19 of the Rutland Core Strategy Development Plan Document 2011 (CS), and Policies SP6, SP15 and SP23 of

the Site Allocations Development Plan Document 2014, along with the design principles set out in the Design Guidelines for Rutland Supplementary Planning Document 2022, which together, amongst other things, seek to ensure that new housing development is of a high quality design that contributes positively to local distinctiveness and landscape character.

12. In addition, the proposal would fail to accord with the design objectives of the National Planning Policy Framework (Framework) and the National Design Guide.
13. The Council in the reason for refusal refers to policies CS3, CS4 and CS24 of the CS. Those policies relate to the settlement hierarchy and the location of development, including the effect on the Rutland Water Area. Therefore, they are not directly relevant to the effect of the development on character and appearance.

Other Matters

14. The appellant suggests that the Council has a perilous 5-year housing land supply position, and a copy of an appeal decision has been supplied, dated 17 March 2023, APP/A2470/W/22/3301737, which indicated, at that time, that the Council were not clear on their housing land supply position. However, the Council has provided a separate appeal decision, APP/A2470/W/22/3312763, dated 09 August 2023, which concludes that the Council is able to demonstrate a 5 years' housing land supply and the relevant development plan policies are not deemed to be out-of-date for this reason. The Council have also provided a copy of the Rutland County Council Five Year Land Supply & Developable Housing Land Supply Report 2023/24-2027/28 dated May 2023, which concludes that the Council can demonstrate a 5-year supply of deliverable housing. Therefore, on the substantive evidence before me I am satisfied that the development plan policies most relevant in this appeal are not out of date.
15. I acknowledge that a site to the south has been identified by the Council as a possible site allocation in its Emerging Local Plan (ELP). However, the ELP is at an early stage and the difference between that site and the appeal site, in scale and its characteristics, are significantly different. On this basis, I have afforded only limited weight to this matter.

Planning Balance and Conclusion

16. The appellant has identified that the Council has raised no concerns with regard to the effect of the proposed development on flood risk and surface water drainage, heritage impacts, highways and access, amenity, ecology, and other matters, including conditions that may be appropriate should I allow the appeal. I see no reason to disagree with the parties on these matters.
17. The site represents a windfall site that can be delivered quickly and measures to enhance biodiversity are proposed. The proposed development would also contribute to boosting the supply of new housing, as referenced in the Framework and provide the associated social, economic, and environmental benefits. There would also be social and economic benefits to local services during the construction and occupancy phases without conflict with neighbouring land uses. However, these benefits would be limited by virtue of the proposal only adding two additional dwellings to the housing supply in the area. Taking the above matters into consideration, the benefits would not

outweigh the identified harm that I have found would be caused in relation to the main issue.

18. Consequently, I conclude that the proposed development would be harmful to the character and appearance of the area, and it would conflict with policies contained within the development plan as a whole. I have found no other material circumstances that would outweigh that conflict. As such, the appeal is dismissed.

N Bromley

INSPECTOR