



Appeal Decision

Site visit made on 21 May 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/A2470/W/23/3332528

Land West of Apple Gate House, Bull Brig Lane, Whitwell, LE15 8BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Cristian Durant against the decision of Rutland County Council.
 - The application Ref is 2022/1000/FUL.
 - The development proposed is erection of 3 dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) whether the appeal site would provide a suitable location for new housing having regard to national and local planning policies; and ii) the effect of the development on the character and appearance of the area.

Reasons

Suitability of the site location

3. The site is located just outside of the planned limits of development (PLD) of Whitwell, and as such is defined as countryside. Furthermore, Whitwell is defined as a Restraint Village. These are the smallest villages in the area with few services and facilities.
4. To contribute towards the delivery of sustainable development, Policy CS4 of the Rutland Core Strategy (2011) (the CS) seeks to sequentially direct most new development to larger settlements, followed by local and smaller service centres. It states that Restraint Villages are not considered sustainable locations to accommodate further development unless it is development that would normally be acceptable in the countryside. Development in the countryside is restricted to that which has an essential need to be located there, or to that which would support the rural economy, or meet affordable housing needs. Policy SP6 of the Rutland Local Plan Site Allocations and Policies Development Plan Document (2014) (the LP) sets out in further detail the type of housing development that may be permitted in the countryside, including replacement dwellings and the conversion of rural buildings. These policies are broadly consistent with the Framework, and it is not disputed that the proposal does not fall into any of the permitted categories of development for Restraint Villages or the countryside.

5. As there are existing houses adjacent to and opposite the appeal site, the proposal would not result in isolated new homes in the countryside. However, there is no footpath linking the site to either Bull Brig Lane or Whitwell Road, both of which are busy roads. There is also no street lighting on Bull Brig Lane, from which the site is accessed. I have not been advised of any services or facilities that are available within the village to serve, or that would be supported by, future occupiers of the proposed development. Nor have I been advised where the nearest shops, education and healthcare facilities are, or whether these can be accessed by any form of regular public transport.
6. I therefore conclude the appeal site is not a suitable location for new housing having regard to national and local planning policies, the aims of which are set out above.

Character and appearance

7. The site comprises a parcel of overgrown grassland enclosed by trees and hedges that are set back from the edge of the adjacent roads behind grass verges. It is bound by houses to the east, the A606 Whitwell Road to the north and Bull Brig Lane to the south and west. There is a row of houses on the opposite side of Whitwell Road and agricultural land on the opposite sides of Bull Brig Lane. The site slopes gently upwards from north to south and from east to west.
8. The village sits in a valley and comprises a small cluster of predominantly one and a half and two-storey stone buildings of varying age, design and roof materials situated on either side of Whitwell Road. The landscape surrounding the built extent of the village is generally open and agricultural in character. Due to the topography of the surroundings and the position of the site towards the top of the valley and on the junction of Whitwell Road and Bull Brig Lane, the site is visually prominent particularly when approaching the village from the west.
9. The proposal would not affect any listed buildings or non-designated heritage assets. Although the site lies immediately adjacent to the Whitwell Conservation Area (CA) it is not within it. As such, the statutory duty under Section 72(1) of the Act does not apply. Nevertheless, national and local planning policies do require regard to be had to the setting of heritage assets.
10. I note that the CA boundary includes the historic core of the village and the land to the south towards Rutland Water that contributes to the setting of the village. It also includes other open space that contributes to the appearance and character of the CA. Whilst the appeal site is not identified as open space that contributes to the character and appearance of the CA, the entrance of the village from the west is identified as providing important views into and out of the village.
11. The significance of the CA is partially derived from its plan form, which reflects the topography of the area and has been developed with individually designed limestone buildings, in a loose-knit linear arrangement, straddling either side of the main road behind grass verges, trees and greenery. At the western end of the village in particular, buildings are set back from the road frontage. The drop in the road level and grouping of buildings within the valley results in the built extent of the village being largely hidden and unobtrusive in the

- landscape. Higher ground and open countryside outside of the village frame its setting.
12. Although the ridge height of the proposed dwellings would not step down in line with the sloping ground level, the general scale and proportions of them, together with the spaces and soft planting between them would reflect that of dwellings surrounding the site. The dwellings would also be of traditional design and materials albeit with some modern features, such as timber cladding, balconies, powder coated aluminium window and door frames, and large areas of glazing, to the rear, facing Bull Brig Lane.
 13. However, the proposed dwellings would be sited closer to Whitwell Road than the two dwellings to the east of the site and those directly opposite it. Plot 3 would be located further west than 'The Cottage' opposite, which like other properties on the edge of the village is set in beyond a generous side garden containing only a small low-level outbuilding. Given the prominence of the western edge of the site, on a junction, on high ground at the entrance to the village, and adjacent to an important viewpoint into the CA, the loss of openness and the siting of buildings close to the roads in this location would detract from the spacious traditional layout that is typical of this western end of the village. The siting of the dwellings, together with the new shared access drive and carports, the new access crossing, and the large bin store in the green verge, would urbanise the appearance of the site.
 14. Whilst I acknowledge that the proposal would not result in the loss of, or any harm to, any known archaeology or to any buildings or structures of special architectural or historic interest, the change in character from undeveloped grazing land to a small housing development together with its associated outbuildings and hardstanding on this elevated edge of village location, would not positively contribute to the largely open and undeveloped character of the site and its surrounding undulating and attractive landscape that forms an important part of the historic setting for both the village and views into the CA. The proposal would therefore fail to preserve those elements of the setting of the heritage asset (the CA) that make a positive contribution to the asset (or which better reveal its significance), in accordance with paragraph 212 of the Framework.
 15. Although the boundary trees and hedges would reduce the visual impact of the development to some extent, this would be reduced in winter and the long-term future of these cannot be guaranteed. Furthermore, given the proximity of the proposed dwellings and ground floor living room windows to the boundary trees and hedges, it is likely that there would be pressure to either remove these or to manage their height and density in the future. I also note that the modern junction to Bull Brig Lane, with its wide bell-mouth and visibility splays detracts from the rural landscape, however, the appeal site forms a soft buffer between this and the CA boundary. As such I afford these matters limited weight.
 16. I therefore conclude that the development would result in unacceptable harm to the rural character and appearance of the area and to the rural setting of the Conservation Area. The proposal is therefore contrary to Policy CS22 of the CS and Policies SP20 and SP23 of the LP. These policies seek, amongst other things, to protect and where possible enhance historic assets and their settings and to respect the historic landscape character.

Other Matters

17. My attention has been drawn to various conflicting appeal decisions in the Rutland area. These appear to relate primarily to larger developments adjacent to larger more sustainable settlements, with one being for a single dwelling adjacent to a smaller service centre at a time when the council did not have a 5-year supply of housing land. None relate to sites adjacent to Restraint Villages. As such they are not comparable to the proposal before me for three dwellings in an unsustainable location, when the council is able to demonstrate it has an adequate supply of housing land to meet current needs.
18. I have not been provided with full details of the other appeal decisions relating to the appeal site but given that these are both over 10 years old, related to different proposals and pre-dated current national and local policies relating to housing land supply and heritage assets, these carry very little weight.
19. Correspondence between the main parties refers to off-site biodiversity net gains being secured by a legal agreement. I have not been provided with any legal agreement to this effect. However, as I am dismissing the appeal on the main issues it is not necessary to seek further clarification on this matter.

Planning Balance

20. It is suggested that the most important policies for determining this appeal should be considered out-of-date for the purposes of paragraph 11d of the Framework. The council can currently demonstrate more than a 5-year supply of deliverable housing land against a requirement of 4-years, as established by the revised Framework and therefore paragraph 11d is not automatically engaged. Paragraph 225 of the Framework confirms that policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework.
21. The most important policies for determining this appeal are Policies CS4 and CS22 of the CS and Policies SP6, SP20 and SP23 of the LP. I consider these to be consistent with the Framework in terms of seeking to promote sustainable development, to safeguard the countryside from development, and to ensure new development does not result in harm to the character and appearance of the landscape and heritage assets.
22. I therefore find that the most important policies for the determination of this appeal are consistent with the Framework and are not out of date. As such, the conflict with these policies weighs significantly against the proposal.
23. Whilst I acknowledge that the council's housing land supply relies in part on other sites that are located outside of the PLD, this does not alter the fact that adequate housing land is currently available. Moreover, these other sites would not have been granted planning permission had they been in unsustainable locations. Table 1 of the appellant's final comments lists the housing sites permitted outside of the PLD, which contribute to the current housing land supply. None of these sites are located within or adjacent to a Restraint Village. Given the lack of services and facilities in Whitwell to serve any future development, the fact that its planned limits of development have not been reviewed for some time does not lead me to a different conclusion on the suitability of the location for new housing.

24. The proposal would add three dwellings to the supply of market housing in the area, which would be of modest social benefit. It would also deliver some modest economic benefits, particularly during its construction phase, but there are very few local services and facilities that would benefit. Any environmental benefits are limited to those necessary to make the development acceptable in planning policy terms, which together with the absence of other harms, such as to highway safety and the living conditions of neighbours, are neutral matters that neither weigh in favour nor against the proposal.
25. The limited benefits identified are not therefore sufficient to outweigh the conflict with the development plan and the Framework. This would be the case even if I considered the most relevant policies to be out of date.

Conclusion

26. For the reasons given above, I conclude the appeal proposal would conflict with the development plan taken as a whole and there are no material considerations, including the Framework, which indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

R Bartlett

INSPECTOR