



Appeal Decision

Site visit made on 26 November 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2025

Appeal Ref: APP/A1910/W/24/3346304

Land to West of Orchard House, Astrope Lane, Astrope HP23 4PN

- 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 Ross Blumire on behalf of Laxton Properties Ltd against the decision of Dacorum Borough Council.
 - The application Ref is 23/02646/FUL.
 - The development proposed is residential development including formation of new houses, access, landscaping and all ancillary features. Diversion of footpath 53.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. Applications for costs has been made by Laxton Properties Limited against Dacorum Borough Council and Hertfordshire Lead Local Flood Authority (the LLFA). These applications are the subject of separate decisions.

Preliminary Matter

3. The Council has referred to public footpath 54 in its decision notice but has since confirmed this was referred to in error and should have been footpath 53.

Main Issues

4. The main issues are:
 - whether the appeal site is an appropriate location for the development having regard to development plan policies and accessibility to facilities,
 - the effect of the proposed development on the character and appearance of the area,
 - whether the proposal would provide adequate provision for surface water drainage, and
 - whether there is an appropriate legal mechanism to secure the diversion of public footpath 53.

Reasons

Location

5. The appeal site is located within what the Council has defined as a rural area whereby Policy CS7 of the Core Strategy 2006-2031 Adopted 25 September 2013 Dacorum's Local Planning Framework (CS) restricts residential development unless certain criteria are met. This includes small-scale development for housing which will be permitted at Long Marston, providing it complies with Policy CS1 of the CS.
6. The appeal site would not be located within the Green Belt or Chilterns National Landscape which Policy CS1 seeks to protect and enhance. However, Policy CS1 also seeks to support the vitality and viability of local communities. In this regard, the village of Long Marston is approximately 1km away from the appeal site, however, it is generally not well related with mostly open fields in between. Access to Long Marston by walking would be possible using Astrope Lane which has no footpaths and is unlit. There are also some public footpaths that follow the edge of the appeal site and could mean that a short section of the lane could be avoided. However, the public footpaths are also unlit and not surfaced which would mean that in adverse weather and in the dark that it would be an unattractive option for future occupiers.
7. As set out above, the appeal site does not provide suitable access to local services and facilities by foot. I note that the appellant refers to a bus service that is Hertfordshire County Council's Demand Responsive Transport service, and that a stop would be established at the site entrance when required. While this could be of some benefit to the appeal scheme by providing more options to travel by public transport, very limited information has been provided about the service and where it would give access too, including at what times. I can therefore only afford it limited weight in consideration of whether the site would be in an appropriate location for the development proposed. It is therefore likely that there would be a high reliance on the use of private cars to access facilities and services in larger towns which would not support the vitality and viability of Long Marston.
8. In regard to the development that has taken place at Astrope House which is very close to the appeal site, this is a development of five dwellings which appeared to be largely complete at the time of my site visit. The location of the dwellings is similar to the appeal proposal, albeit the access is further along Astrope Lane. While I note the developments are near to each other, the access of the neighbouring development is nonetheless closer to Long Marston.
9. The short section of Astrope Lane from the appeal site's entrance to the neighbouring development is generally narrow with very little verges and a sharp bend with limited visibility. In comparison, the stretch of Astrope Lane from the neighbouring development is straighter with improved visibility and there are also grass verges which would allow pedestrians to get out of the road. Therefore, while the distance between the two site entrances is short, the neighbouring development provides a more attractive and convenient option for walking.

10. I therefore conclude that the appeal site would not be an appropriate location for the proposed development because future occupiers would be reliant on the use of private vehicles to access facilities. It would therefore be contrary to Policies CS1, CS7 and CS8 of the CS. Amongst other things, these seek to ensure that development supports the rural economy and maintenance of the wider countryside, give priority to the needs of other road and passenger transport users over the private car and reduce travel demand and the need to travel.
11. The proposal would also be contrary to Policies 1 and 5 of the Hertfordshire's Local Transport Plan 2018 (TP) which seek to encourage greater and safer use of sustainable transport modes.
12. I also find conflict with Paragraphs 82, 83, 110, 115 and 117 of the National Planning Policy Framework (the Framework) which amongst other things, state that housing should be located where it will enhance or maintain the vitality of rural communities and give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport while also recognising opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

Character and appearance

13. The appeal site is an open field which is roughly square in shape and is grassed. It is located between dwellings and is bordered by dense hedges and trees. The wider area is mostly large and open fields which are bordered by hedgerows which results in an open and rural character and appearance.
14. The appeal site is located within the small hamlet of Astrope which consists of a small selection of houses which are dispersed. Development is mostly focused on only one side of the road which is the same side as the appeal site which is currently an open gap between dwellings.
15. The proposed development would sit well between the existing dwellings through the formation of a continuation of built form. The development would also be set back from the road and the dense trees and hedgerows that front the site would be retained which would maintain the open and rural character and appearance of the frontage.
16. The proposed development is clustered together with the dwellings to the frontage being larger than those behind which would result in the impression of less built form on the site and more akin to the larger dwellings that are characteristic of the area. A number of trees are proposed to be removed at the sites entrance to create the access, however, much of the existing vegetation would remain which would therefore only allow glimpsed views into the site from passing cars.

17. I therefore conclude that the proposed development would not harm the character and appearance of the area. I find no conflict with Policies CS7, CS11, CS12, CS13 and CS25 of the CS and Policies 79 and 100 of the Dacorum Borough Local Plan 1991-2011 Adopted 21 April 2004 Written Statement. Amongst other things, these seek to ensure that development has no significant impact on the character and appearance of the countryside, respect the typical density intended in an area and enhance spaces between buildings and enhance Dacorum's natural landscape.
18. I also find no conflict with Paragraphs 96 and 187 of the Framework which amongst other things, state that decisions should contribute to and enhance the natural and local environment.

Surface water drainage

19. The Council found that insufficient information was submitted with the application in order to demonstrate that the development would provide adequate provision for surface water drainage.
20. The appellant has provided additional information with the appeal which responds to the main concerns raised by the Council. An updated drainage layout has been provided which shows the location and route of a proposed open ditch which would convey flows from the development into Wilstone Brook. A document has also been provided which shows that the appellant has an in-principal agreement from the adjacent landowner for the site outfall which is outside of the site boundary.
21. I am satisfied that the implementation of the surface water drainage scheme could be secured through a suitably worded Grampian style condition. While it would be on land not in the ownership of the appellant, there is some chance of fulfilment through a Grampian style condition as this would require the provision of physical works before the main development is started or occupied.
22. However, while I am satisfied the drainage scheme itself could be constructed, I am mindful that there is only an in-principle agreement from the adjacent landowner. As such, I cannot be sure that any future maintenance that would be required could be carried out. For the same reason, a condition requiring on-going maintenance once the development was occupied would fail the tests outlined in Paragraph 57 of the Framework. As such, I cannot be certain that an adequate surface water drainage scheme could be maintained for the lifetime of the development.
23. In this regard, the development would fail to provide adequate provision for surface water drainage. I therefore find conflict with Policies CS29 and CS31 of the CS. Amongst other things, these seek to ensure that development provides an adequate means of surface water, minimises water runoff and secure opportunities to reduce the cause and impact of flooding. I also find conflict with Paragraph 181 of the Framework which amongst other things, states that development incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate.

Public footpath

24. There are two public footpaths that run through the appeal site, No 53 which runs diagonally through the site and No 54 which runs along the edge. It is proposed to resurface footpath No 54 which would be of benefit to future users of this path through its improved usability.
25. No 53 is proposed to be diverted around the edge of the site so it would no longer run diagonally through it and while the length of this particular section would be extended, it would be a minor increase. Instead, the surfacing of the path and its connection with the proposed development would be beneficial to future residents and other users of the footpath as it would be easier to use. The lining of the footpath with fencing would only provide clarity on the route of the footpath and a sense of security for future occupiers of the development.
26. In light of the enhancements proposed, I consider that the usability of the footpath would be generally improved for users. I find no conflict with Policies CS26 and CS35 of the CS which amongst other things, seek to ensure that development contributes towards the creation of better public access and links through green space and local infrastructure.
27. In regard to the legal mechanism to secure the footpath diversion this is not a matter for me to consider as part of this appeal as there is a separate process for diverting footpaths which could be carried out after planning permission is granted.

Other Matters

28. The appellant has referred to other appeals and development in an attempt to justify the appeal proposal. I do not have the full details in respect of such examples so I cannot be sure of the circumstances. In any case, I have determined the appeal on its own merits, based on the evidence before me. There is no one size fits all approach to sustainability and each case needs to be considered on its own merits, based on its specific circumstances and is similar to the approach taken in other appeal decisions¹. However, in respect of the appeal decisions I have been referred to, the proposal was still found to conflict with locational Policies which was subsequently outweighed within the planning balance. Albeit substantially more dwellings were proposed as well as affordable homes, first homes, custom and self-build dwellings and a doctor's surgery, which is materially different to the benefits of the scheme before me.
29. The proposed dwellings would incorporate electric vehicle charging points to encourage the uptake of electric vehicles. However, this is a building regulation requirement and therefore a neutral matter.

Planning Balance

30. The proposal would be contrary to Policies CS1, CS7, CS8, CS29 and CS31 of the CS and Policies 1 and 5 of the TP. These Policies are consistent with the Framework in focusing on avoiding the development of isolated homes in the countryside, ensuring sustainable transport modes are prioritised, giving first priority to pedestrians and cycle movements and ensuring that flood risk is not increased elsewhere.

¹ APP/P1940/W/22/3311477 and APP/P1940/W/22/3311479

31. The Council is unable to demonstrate a 5-year supply of deliverable housing sites. The appellant suggests the Council is only able to demonstrate a 2.06 year supply, which is not disputed by the Council. This represents a substantial undersupply. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, the policies which are important for determining the application should be deemed out-of-date and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having regard to various particular key Policies it contains.
32. The proposed development would contribute to the supply of new homes in a situation where there is a shortfall. This attracts substantial weight in favour of the development. The proposal would support the creation of jobs directly and indirectly during construction and result in future occupiers spending in the locality. The dwellings are also intended to be energy efficient with the use of photovoltaic cells and air source heat pumps which would attract some environmental benefits.
33. In this instance, the benefits would not significantly and demonstrably outweigh the harm caused by the appeal site not being a suitable location for the proposed development as well as the potential to increase flood risk. As such, the proposal would not constitute a sustainable form of development in terms of the Framework. Consequently, when assessed against the Policies in the Framework when taken as a whole the benefits would not significantly and demonstrably outweigh the adverse impacts.
34. The appeal site falls within the zone of influence for the Chilterns Beechwood Special Area of Conservation. As the competent decision-making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme and consider the submitted Unilateral Undertaking, dated 12 September 2024. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Conclusion

35. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR