



Appeal Decision

Site visit made on 24 February 2025

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Appeal Ref: APP/D1265/W/24/3350696

Land at Back Lane, Sydling St Nicholas, Dorset DT2 9RG

- 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 4 'A's Developments Ltd against the decision of Dorset Council.
 - The application Ref is P/FUL/2023/01342.
 - The development proposed is demolition of redundant agricultural buildings and erect 3 residential units with garages, served off a new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties have had the opportunity to comment on the implications of this change and no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issues

3. The main issues are:
 - whether the appeal site would be a suitable location for the proposal, with specific regard to the local development strategy and accessibility to services and facilities;
 - the effect of the proposal on the character and appearance of the area, with particular regard to the Sydling St Nicholas Conservation Area (CA) and Dorset National Landscape (DNL); and
 - whether flood risk has been sufficiently assessed and will be appropriately managed.

Reasons

Location

4. Policy SUS2 of the West Dorset, Weymouth & Portland Local Plan (2015) (LP) provides the development strategy for the area and seeks to ensure the greater proportion of development is at 'more sustainable settlements'. To do so, the policy directs development in rural areas to the larger settlements with defined development boundaries.

5. However, Sydling St Nicholas is a smaller settlement without a defined development boundary where the policy states that such settlements 'may also have some growth to meet their local needs'. Section(iii) of the policy further outlines that development will be strictly controlled outside of defined development boundaries, restricting development to certain types such as affordable housing and rural workers housing, none of which are applicable to the scheme before me, which relates to open market housing.
6. Furthermore, Sydling St Nicholas has a limited range of services and facilities, as well as a lack of a regular public transport. Due to the distance to other settlements via largely unlit country lanes, future occupiers of the proposal would be reliant on private vehicles to access services and facilities within other larger settlements for day to day living.
7. Although the LP was adopted in 2015, the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. In this instance LP Policy SUS2 is broadly consistent with the provisions of the Framework which seeks to promote sustainable development, locate housing where it will enhance or maintain the vitality of rural communities, and which seek to ensure that developments create places that are inclusive and accessible. Therefore, I do not consider LP Policy SUS2 to be out of date for the purposes of this decision, and full weight can be accorded to it.
8. Furthermore, whilst the Framework does encourage the use of previously developed land (PDL), and sites that are physically well-related to existing settlements, the Framework definition of PDL excludes land that is or was last occupied by agricultural or forestry buildings, as is the case at the appeal site.
9. Consequently, I conclude that the appeal site is not in a suitable location for open market housing with specific regard to the local development strategy and accessibility to services and facilities. As such, it is contrary to LP Policy SUS2, the aims of which I have outlined above.

Character and appearance

10. The appeal site accommodates two relatively modest agricultural buildings and is located within the CA and DNL. Although residential dwellings at Cutlers Close neighbour the site on one side, these are visually seen as the edge of urban form associated with the settlement. Conversely, the appeal site and surrounding area have a distinctly rural countryside character due to its location along an unmade section of Back Lane and surrounding open fields and rolling countryside.
11. The Cerne Abbas, Charminster, Sydling St Nicholas & Godmanstone Conservation Area Appraisal sets out qualities of the CA and having regard to these qualities I find its significance is derived, in part, from its distinctive and attractive landscape setting and largely intact village plan.
12. The proposal has been designed to appear as converted rural buildings, featuring traditional design features including steeply pitched roofs. However, the layout featuring dwellings tightly set in a horseshoe around a central courtyard would result in a visually dense development that would not respect the overall linear street patterns of the settlement. Furthermore, the increased massing of built form on the appeal site, combined with lack of visual permeability would harmfully

reduce the visual transition from the settlement to the surrounding countryside landscape currently provided by the modest agricultural buildings.

13. This would be particularly evident from both vantage points along Back Lane as well as from elevated viewpoints within the surrounding landscape. The proposal would therefore diminish the character and appearance of the CA and reduce the contribution of the site to the landscape and scenic beauty of the DNL.
14. I consider the harm to the CA to be less than substantial. Nonetheless, this harm attracts great weight under the terms of the Framework and fall to be weighed in the balance with the public benefits. The scheme would provide three new dwellings to the area replacing agricultural buildings which I'm told are disused, and there would also be associated economic benefits to the scheme during the construction period and from future occupation. However, due to the modest scope and scale of the proposal, these benefits attract limited weight and would not outweigh the individual harm to the CA.
15. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area, with particular regard to the CA and DNL. It would therefore conflict with LP policies ENV1 and ENV4. These policies seek to ensure, amongst other things, that development is located and designed so that it does not detract from and, where possible, enhances local landscape character, and conserves and where appropriate enhance the significance of heritage assets.

Flood risk

16. The appeal site is within Flood Zone 1. However, part of the site is identified as being within an area at risk of groundwater flooding. A consultation response from St Nicholas Parish Council provides anecdotal evidence of nearby flash flooding events due to Sydling St Nicholas being within a chalk valley. A further response from Wessex Water notes that whilst there are no public sewers in the vicinity, the proposal is located in an area prone to sewer flooding caused by high levels of groundwater during prolonged periods of wet weather.
17. The Framework identifies that a sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).
18. Furthermore, in assessing applications the Framework requires that development does not increase flood risk elsewhere, and should demonstrate, amongst other things, that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.
19. Even if no built development, land raising or other potentially vulnerable elements would be located on an area at risk from flooding, precluding the requirement for a sequential test, the appellant's Flood Risk Assessment (FRA) takes a desk-based approach. It does not go so far as undertaking a surface water investigation to demonstrate that a surface water drainage scheme as described within the FRA

would be viable or effective, or how properties within and beyond the site will be protected from any increased flood risk.

20. This poses uncertainty about whether appropriate onsite drainage can be achieved for this specific scheme given the risk of groundwater flooding in the area. I am therefore concerned that any planning permission granted might be negated by the lack of suitable drainage facilities. As such, it would be unreasonable to leave this matter to a planning condition.
21. Overall, the submitted evidence does not provide me with sufficient certainty as to whether this matter could be addressed or not. Therefore, it has not been clearly demonstrated that identified flood risk has been sufficiently assessed and will be appropriately managed. Consequently, I conclude that there is conflict with LP Policy ENV5 which seeks, amongst other things to avoid risk of flooding.

Other Matters

22. Another appeal decision¹ within the same settlement has been brought to my attention. The Inspector within the other appeal also found that there was a distinct lack of local services and facilities, and the proposal before them ran contrary to LP Policy SUS2. However, the Inspector also identified that in the context of that particular site, the proposal would result in a minor enhancement to the character and appearance of the CA. Furthermore, the proposal was for a greater number of dwellings, 5 of which were affordable, such that the benefits of the proposal outweighed the harm. As such that appeal materially differs from the case before me.
23. The scheme would provide three new family sized dwellings to the area's housing supply, and there would also be associated economic and social benefits to the scheme during the construction period and from future occupation. However, given the scale of the proposal, these benefits would be modest. Furthermore, even if the proposal would not harm neighbouring occupiers living conditions, a lack of harm is a neutral factor.
24. The Grade II listed Ham Farmhouse, and 5 & 6 Waterside Lane lie near the appeal site. I observed that the significance of these heritage assets derives in part from their historic and architectural values as examples of period farm buildings. The functional riverside position of Ham Farmhouse, architectural form and relationship to its historic outbuilding can be understood and appreciated from Waterside lane which forms its setting. The historic relationship of 5 & 6 Waterside Lane with the thoroughfare and the remnants of the historic plots form the setting of these heritage assets. Given the spatial relationship with the appeal site, and, in the case of Ham Farmhouse, intervening built form, the proposal would, in so far as it relates to this appeal, have a neutral effect on the significance of these heritage assets, including their setting.
25. The appeal site lies within the nutrient catchment area of the Poole Harbour Special Protection Area and Ramsar site (habitats sites), which supports a variety of rare birds. Conservation objectives include contributing to the aims of the Wild Birds Directive by amongst other matters, restoring and maintaining habitats of the qualifying features.

¹ APP/F1230/W/15/3135041

26. Natural England advise that there are high levels of nitrogen and phosphorus entering the water environment and these excessive levels of nutrient are causing eutrophication. The addition of residents associated with new dwellings which increase the amount of foul water produced in the catchment area will be likely to increase levels of nutrients within the habitats sites. Significant effects from the development are therefore incapable of being ruled out and are considered likely.
27. Whilst the effect of the existing agricultural use of the site on nitrates has been highlighted, no nitrates calculations have been provided. It is suggested that a planning condition could be imposed in order that evidence of the purchase of nutrient mitigation credits from an accredited third-party mitigation provider is provided before any commencement of development. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal.
28. Given my conclusions on the main issues above, it is not necessary for me to consider this matter any further as the proposal would not take place and would not affect the habitat sites. Moreover, even if I were to find that suitable mitigation could be appropriately secured, a lack of harm would only be a neutral factor.

Conclusion

29. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR