



Appeal Decision

Site visit made on 27 July 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2021

Appeal Ref: APP/K2420/W/21/3272931

Land at Sketchley Farm, Burbage, Hinckley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Louise Ward of Persimmon Homes (North Midlands) against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 20/00249/OUT, dated 4 March 2020, was refused by notice dated 13 October 2020.
 - The development proposed is outline application for the erection of up to 80 dwellings with all matters reserved excluding access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with all matters reserved for future consideration except for access. I have considered the appeal on this basis. Plans have been provided indicating the location of the groups of dwellings, which I have had regard to as indicative only.
3. An amended Development Framework (DF) and Green Infrastructure Strategy (GIS) (August 2020) submitted during the determination of the application show a revised indicative layout to the development block on a reduced development area. The Council has confirmed it made its decision on the basis of the amended scheme, and I have had regard to it in determining this appeal.
4. Since the appeal was lodged the Burbage Neighbourhood Plan (the NP) has been made (10 May 2021), becoming part of the statutory development plan. The revised National Planning Policy Framework (2021) (the Framework) was also published (20 July 2021). The Council and the Appellant have had the opportunity to comment upon the implications of these changes, and I have taken these into account in setting out the main issues below and in determining this appeal.

Main Issues

5. The main issues are:
 - whether the proposed development would be in an acceptable location having regard to policies that seek to manage the location of new development; and,

- the effect of the proposed development upon the character and appearance of the area and on the role and function of the Green Corridor.

Reasons

Location of development

6. Policy 4 of the Core Strategy (2009) (the CS) states the Council will allocate land for the development of a minimum of 295 new residential dwellings, focused primarily to the north of Burbage. Between April 2006 – March 2020 there has been 925 completions in Burbage, and against a residual requirement of 46 dwellings at April 2014, 704 have been completed. However, while Burbage has been the subject of considerably more completions than the minimum set out, the CS does not impose a ceiling on housing delivery and the Council acknowledges that as its policies focus on a lower delivery than currently required, they are out of date.
7. The appeal site comprises approximately 3.9 hectares of pastureland within the open countryside. It is surrounded by mature trees and hedgerows adjacent to residential areas to the east that are within the settlement boundary of Burbage in the NP. Policy 1 of the NP states residential development on land within or adjacent to the settlement boundary, will be supported subject to complying with other development plan policies.
8. Policy DM4 of the Site Allocations and Development Management Policies DPD (2016) (the DMP) seeks to protect the intrinsic value, beauty, open character, and landscape character of the countryside, by safeguarding it from unsustainable development. While DM4 pre-dates Policy 1 of the NP, the NP was prepared, examined and adopted in the context of DM4's requirements. Given the scope and open wording of Policy 1 and the reference to 'settlement boundaries' in DM4, the policies are not in direct conflict having regard to section 38(5) of the Town & Country Planning Act 1990. DM4 is not superseded by Policy 1 and is relevant to my assessment of the proposals.
9. DM4 outlines categories of development it considers in principle are sustainable. The area and scale of these proposals would result in a large incursion into the open countryside significantly urbanising open rural land. Therefore, this proposal does not fall within one of the listed categories of sustainable development, and as such, conflicts with the first part of DM4. I will go onto consider compliance with the other criteria of DM4 below.
10. For the reasons set out above the proposed development would not be in an acceptable location having regard to policies that seek to manage the location of new development. Therefore, it conflicts with Policy DM4 of the DMP, the relevant provisions of which I have referred to above. As compliance with Policy 1 of the NP is subject to compliance with other policies of the development plan, it would also be in conflict with that policy.

Character and appearance & Green Corridor

11. The value of the appeal site and surrounding open land is reflected in its designation as part of a Green Corridor (GC) under NP Policy 9. A GC is not strictly defined in the NP. However, Policy 9 (titled Wildlife and Green Corridors) expects development to seek to protect and enhance the network of green spaces, stepping stones and wildlife corridors including species rich

- hedgerows, which provide a valuable linear network allowing for the movement, as well as providing a habitat, for wildlife.
12. In specifically referring to protecting and enhancing the 'network of green spaces' and the pre-text referring to both biodiversity (section 27) and landscape impacts (section 28), notwithstanding the title of Figure 25 ('Wildlife Corridors and Hedges') and ecological references in the supporting text, I am of the view GCs are multi-functional. Therefore, Policy 9 applies to spatial, landscape and biodiversity effects of development. Policies 10 and 11 of the NP primarily relate to a specific single viewpoint and Area of Landscape Sensitivity to the east of Burbage. The absence of a reference in Policy 9 to landscape does not mean there is no landscape protection sought by it.
 13. One of the notable characteristics of the area is smaller scale pasture fields around settlements, recognised in the Landscape Character Assessment (2017) description of Landscape Character Area F (Burbage Common Rolling Farmland). Its partial woodland setting, size, sloping landform of open ridge and furrow grazing land bound by mature trees and hedgerows, contributes positively to this recognised characteristic. Its connection with a pond, the verdant corridor of the Sketchley Brook and other pasture of the wider GC between development, means the appeal site comprises an important part of and is of significant value to the GC.
 14. Notwithstanding the elevated sloping nature of the appeal site, the mature perimeter trees and hedgerows filter visibility and perception the developed wider surrounds, providing a strong degree of separation to much of the built-up area. As a consequence of this and the significantly pastoral and rural feel, the appeal site makes a significantly positive contribution to the character and appearance of the area, countryside, and the setting of this part of the village. This is particularly discernible from Public Right of Way (PROW) U64 which based upon what I saw and from representations before me, is a popular local route. The appeal site is of particular value given the ease at which U64 is accessed from residential areas, making it within easy reach of many.
 15. The Landscape Sensitivity Assessment (2017) (the LSA) advises the area has a low sensitivity to residential development. Although the study states the A5 forms a strong southern boundary such that much of the area is perceived as part of the existing settlement, it also confirms the well-defined pasture fields contribute to the rural setting. The site is typical of fields retaining rurality with well-treed field boundaries creating a distinctive local landscape from the rest of the area, described on page 40 of the LSA.
 16. The degree of visibility from nearby properties and right of way U64 means I regard this appeal site as having an overall moderate sensitivity. The Landscape & Visual Assessment (LVIA) advises the landscape is of a low to medium value. My view it is of an overall medium value due to its topography, ridge and furrow, mature landscape features and significantly positive contribution to the setting of this part of Burbage, Sketchley Old Village and Manor Farm. However, I do not regard the landscape as having the qualities and degree of excellence that would elevate it to be considered as a valued landscape in the meaning of paragraph 174a) of the Framework.
 17. While the GF and GIS are indicative only, the suggested layout indicates much of the residential development would be located towards the top of the land slope. Reserved matters submissions could secure development of a similar

- scale and character to that surrounding and associated landscaping. However, up to 80 dwellings of the approximate densities set out, associated development, infrastructure, paraphernalia, activity and comings and goings, would result in an intense form of development over a sizeable area.
18. Being developed broadly in the indicative manner set out, the new development would be forward of the surrounding mature trees and hedgerows to the east, significantly obstructing their visibility and providing a stark visual contrast when viewed from U64, forming the predominant backdrop. The development would considerably reduce and narrow this part of the GC, diminishing its visual and perceptual landscape value. The sense of this would be exacerbated by the dwellings being towards the higher part of the site, resulting in a considerable feeling of enclosure. As a consequence, it would significantly erode the visual attractiveness, open and rural character, and the visual and spatial qualities of the GC and countryside. The positioning means it would not be sensitively sited as required by the LSA.
 19. The LVIA concludes the long-term effect would be minimal-moderate adverse. However, given the considerable reduction in GC area and the limited area for landscaping which would be close to new residential properties, I do not consider it likely that even the 15 year long-term effects of landscaping could prevent a significantly harmful effect when viewed from part of U64. Similar can be said of its effects upon residential receptors to the east and longer views from near Sketchley Old Village. The effects would be particularly noticeable when trees are not in leaf.
 20. My view is confirmed by the LVIA which states that while the wider visibility of the appeal site is limited and the effects would be such, there would be major and moderate adverse effects from viewpoints on U64 to the east, south and south west in the longer term, as well as minor-moderate effects at some properties. The effects from wider viewpoints would be more limited. From what I saw at my visit parts of Crimson Way and Ruby Close are adjacent to open space and their arrangement is not dissimilar to the pattern of development which would result from this proposal. However, these matters do not overcome or prevent localised significantly harmful effects to the character and appearance of the GC and the visual function and role of this highly locally valued resource.
 21. The GF and GIS plans show a safeguarded local wildlife site, drainage feature, western green link, biodiversity corridors, amenity green, somewhat limited retained ridge and furrow features, and the retention of the significant majority of protected trees and hedgerows. The modest number of protected and other trees to be lost are category C trees of relatively limited value. New planting overall in the longer-term would be likely to compensate for their loss. Noting the views of the Council's Tree Officer in respect of G7 – G9, the remaining trees could be protected through suitably worded planning conditions in respect of the layout and protective measures during construction. However, this does not overcome the other harm I have found to the GC.
 22. Policy 9 expects the wildlife function of the GC should be protected and enhanced. The appeal site grassland does not meet Local Wildlife Site criteria, but the northern part should be retained as it has elements of potential lowland meadow. The two Ash trees, scrub, and hedgerows with potential for Bat roosting, foraging, and commuting could be retained with a buffer could ensure

their value is retained. There would be no significant negative effects on Bats or Badgers, and it is unlikely that Great Crested Newts or Water Voles are present. Any removal of suitable bird nesting habitat should take place outside of the bird breeding season.

23. Habitat creation, retention and enhancement works to ensure connectivity with surrounding habitats, hedgerow enhancement, nest boxes, additional seeding of retained northern grassland, provision of standing water, and a biodiversity management plan could be secured by suitably worded planning conditions. On this basis, the proposed development would be likely to result in a small biodiversity net gain in accordance with Policy DM6 of the DMP and Policy 20 of the CS. It would also, overall, protect and enhance the wildlife function of the GC, in compliance with Policy 9 of the NP.
24. However, for the reasons set out above, the development would be significantly harmful to the character and appearance of the area and significantly harmful to the spatial and visual extent of the GC. It would conflict with Policy DM4 of the DMP, which expects development should not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside, or undermine the physical and perceived separation and open character between settlements. Notwithstanding compliance with Policy 9 of the NP in respect of the wildlife corridor function of GC, the proposed development conflicts with Policy 9 overall, as it would not protect and enhance the network of green spaces. Therefore, the development would also be in conflict with Policy 1 of the NP.

Other Matters

25. There is some inconsistency between the appeal documents in referring to either 72 or 80 dwellings, and notwithstanding the proposed reduced indicative development area, the description of the proposed development has not changed. The section 106 agreement secures matters including affordable housing provision, on-site space, off-site contributions, and maintenance for open space. Subject to the imposition of suitable planning conditions the proposed development could secure a suitable level and size of affordable dwellings compliant with Policy 15 of the CS. While the Council's delegated report suggests the provision of open space would be above that necessary in plan policies, in my view it is necessary to comply with aspects of other policies in respect of Green Infrastructure and ecology.
26. The LVIA highlights the open view from the site towards the Grade II* Listed Church of the Assumption of St Mary in Hinckley approximately 1.2km to the north. Special regard should be given to the desirability of preserving the setting of a Listed Building under section 66(1) LBCAA. Historic England has no concerns in relation to the effect upon the Church, and the Council's view is that the minor appreciation of the significance obtained from the appeal site would not be adversely affected.
27. The appellant's Desk Based Assessment advises the ridge and furrow is of medium significance due to the quality of its survival, such that it constitutes a significant regional example of the medieval field system. Therefore, I do not agree with the appellant's view it is of 'low' significance, or the retention of the somewhat limited areas would constitute any overall benefit as a consequence of the development. The evidence suggests the effect upon non-designated heritage assets is likely to be an overall neutral matter in the planning balance.

Planning Balance

28. The Council cannot demonstrate a deliverable housing land supply (HLS) of 5 years. Therefore, the most important policies for the determination of the application are out of date and paragraph 11(d) of the Framework is engaged. Given the absence of site allocations in the NP to meet the identified housing requirement, paragraph 14 of the Framework is not engaged.
29. The mix of the size of dwellings is not specified at this stage. However, if the Council's HLS is 4.12 years and based upon the housing register figures and likely position set out by HBBC Affordable Housing, the social benefits of up to 80 additional dwellings of which 20% would be affordable (75% for affordable rented and 25% intermediate affordable dwellings), would be a significant social benefit, secured by the planning obligation. The economic benefits overall are afforded moderate weight in favour of the scheme.
30. The proposed development would contribute to a wider improvement scheme to junctions already operating above their practical reserve capacity. Without the contribution to improvements the scheme would have a severe impact upon the operation of the road network. There would be some benefits for pedestrians such as new controlled crossing points and accessibility improvements to sections of public rights of way. There would be a gain in public open space. However, many of these benefits are necessary to mitigate the impact of the proposed development and I afford them little weight. While I acknowledge that subject to suitable longer term management and maintenance there would be a small net gain to biodiversity, this would be minimal, and I afford it a minor amount of weight.
31. The proposed development conflicts with policies that seek to manage the location of new development. Although Policy 1 of the NP does not include allocations to meet the identified housing requirement, the conflict with the Policy is afforded full weight. In respect of this matter, there is also a conflict with Policy DM4 of the DMP, which the Council informs me is out of date. I have been provided with copies of and comments upon a number of appeal decisions¹. I do not share the appellant's view DM4 attracts little or no weight. The Inspector for Ref APP/K2420/W/20/3260227 found the policy attracts due weight having regard to paragraph 219 of the Framework. There is no evidence before me in the appellant's submissions, or the subsequent making of the NP, that would lead me to a different conclusion.
32. Policy DM4 is consistent with the Framework as it seeks to protect the intrinsic character, beauty, open character, and landscape character of the countryside, from unsustainable development, rather than a blanket protection to all countryside. Having regard to the nature of the harm I have found, the conflict still attracts significant weight. The significant harm to the character and appearance of the area and the GC would result in a conflict with Policy 9 of the NP, which is afforded significant weight. Its purpose in respect of protection and enhancement of wildlife and habitats does not reduce this.
33. Overall, I am of the view that the conflict with the policies for the location of development, the harm to the character and appearance of the area, and the function of the Green Corridor, is such that it significantly and demonstrably

¹ APP/K2420/W/20/3266622, APP/K2420/W/20/3262295, APP/K2420/W/17/3188948, APP/K2420/W/19/3222850, APP/K2420/W/20/3260227, APP/K2420/W/20/3260227.

outweighs the benefits of the development when assessed against the Framework taken as a whole.

Conclusion

34. For the reasons set out above, I consider the proposed development conflicts with the development plan read as a whole. There are no considerations advanced including the policies of the Framework which outweigh these findings. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR