



Appeal Decision

Hearing held on 4 September 2019

Site visit made on 4 September 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2019

Appeal Ref: APP/Z1510/W/18/3209711

Woodpecker Court, Poole Street, Great Yeldham CO9 4HN

- 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 Arboretum Partners against the decision of Braintree District Council.
 - The application Ref 17/01960/OUT, dated 31 October 2017, was refused by notice dated 12 April 2018.
 - The development proposed was described as: Outline planning permission is sought with all matters reserved, for demolition of existing buildings and a residential development of up to 26 dwellings, including 40% affordable housing, accesses, associated infrastructure and open space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst an illustrative layout has been provided, the application has been made in outline. Access, appearance, landscaping, layout and scale are reserved for future consideration. At the Hearing the main parties agreed the drawings upon which my decision should be based. These include amendments to correct the red line site boundary to align with the appellant's ownership.
3. Having regard to the Wheatcroft principles¹ I am satisfied the development is not changed from the scheme the Council was considering such that third parties would be deprived from the opportunity to comment by my acceptance of these amended plans. Therefore, I have made my decision based on these amended plans.
4. Since the Council's decision was issued the National Planning Policy Framework (the Framework) has been revised. Both main parties have had an opportunity to comment on any relevant implications for the appeal and any comments made have been taken into account in my reasoning.
5. My attention has been drawn to policies of the emerging Local Plan. However, examination of this plan is yet to be completed and I do not know to what extent there are unresolved objections to its policies. Therefore I attach limited weight to these policies.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

6. A planning obligation was completed during the course of this appeal and as such the Statement of Common Ground confirms that the second reason for refusal stated on the Council's decision notice has been addressed in full. Therefore, there is no need for me to consider this in any further detail.

Main Issues

7. The main issues, as agreed with the main parties at the Hearing, are:
- whether the proposal is in a suitable location having regard to its accessibility to services and facilities,
 - the effect of the proposal on the character and appearance of the area including the setting of the grade II listed building at Cooksferry Farmhouse, and
 - whether the Council can demonstrate a 5 year supply of deliverable housing sites with the appropriate buffer.

Reasons

Accessibility to Services and Facilities

8. The appeal site is in the countryside on Poole Street which leads to the closest village of Great Yeldham. A bus service runs along Poole Street connecting Great Yeldham to Braintree. Great Yeldham contains a range of services and facilities including a school, public houses, church, post office, retail and restaurant. However, the bus service along Poole Street is infrequent. It runs hourly during the day and does not run in the evening or on Sundays. Moreover, as I saw at my site visit, there is no physical indication on either side of the road that a bus stop exists near the appeal site.
9. Pool Street is a narrow road with a 40 mph speed limit. It is lacking in street lighting and in the vicinity of the appeal site has a footpath only on the side opposite the appeal site making it necessary to cross the road to use it. The footpath is extremely narrow such that it is difficult for two people to pass without one of them stepping into the road. It is immediately adjacent to the carriageway and in parts the vegetation growing to the side makes the footpath difficult to navigate. A public right of way running from the rear of the appeal site toward Great Yeldham is similarly overgrown.
10. Whilst I appreciate that sustainable transport solutions will vary from urban to rural areas, considering all of the above factors, it is highly likely that occupants of the development would rely mainly on private cars to access services and facilities, rather than walk, cycle or use public transport. Local services and facilities exist and are not geographically far from the appeal site. But the non-car-based options for traveling to them are not safe, comfortable or convenient, especially for children, the elderly or when travelling during the hours of darkness.
11. Improvements are proposed, including a footway along the side of the appeal site fronting the road, installing a pedestrian island in the road and upgrading the bus stops. It is suggested these are secured by way of planning conditions. However, limited details have been provided of exactly what all of the above would entail and so I am not satisfied they would change how occupants of the development would access services and facilities.

12. I conclude on this main issue, that even with the improvements proposed, the proposal would not be in a suitable location having regard to its accessibility to services and facilities and therefore would not comply with Policy CS7 of the Core Strategy or Policy RLP 10 of the Local Plan Review. Together these seek that development is provided in accessible locations to reduce the need to travel and that the density of residential development is related to the location of the site in relation to public transport accessibility and shops and services.

Character and Appearance

13. The appeal site is formed of separate parcels of land including Woodpecker Court and two plots which each contain a detached dwelling fronting the road. Woodpecker Court consists of a handful of industrial units set back from the road. At the time of my visit one of these was in use as a laundry, another was being used for vehicle repairs and another was vacant and in a state of dereliction with significant areas of external walls missing.
14. The existing dwellings are known as Hill House and Cherrytree Cottage, the latter of which was vacant and in a state of disrepair at the time of my visit. Whilst the appeal site is surrounded by vegetation, the houses and parts of the industrial units are seen from the road through vegetation and the existing site accesses.
15. Opposite and behind the appeal site is open countryside. Various dwellings are dispersed along Poole Street at irregular intervals but in a linear form, including Cooksferry Farmhouse across the road, which is grade II listed. Dwellings along Poole Street are generally detached and sited on large plots. Overall the area has a pleasant and relatively undeveloped open countryside setting interspersed by individual buildings and vegetation.
16. Whilst the application has been made in outline, based on the size of the site and the amount of development proposed, in my judgement it would appear as an estate format of development in a relatively undeveloped landscape. This would result in a significant urbanisation of the area and would not reflect its established general character of sporadic countryside houses on large plots in a linear format.
17. I appreciate that a significant proportion of the appeal site is previously developed land² and that the site is screened by vegetation and would continue to be so, such that the proposal would not clearly be seen from long distances. But based on the information provided I am not satisfied the appeal development would not be clearly seen from Poole Street and that it would not appear significantly more developed as a result of the appeal scheme than it is currently, particularly when viewed through accesses or vegetation alongside Poole Street. As such there would be a significant harmful visual effect.
18. It is proposed that a meadow at the rear of the site would be retained but this would not offset the harm identified above. I accept that the existing industrial units do not contribute positively to the character or appearance of the area and that there is development on the site that is of a poor environmental quality. But these are not good enough reasons to allow the development proposed. The appellant considers the appeal site forms part of a defined nucleus of at least 10 dwellings and so is a hamlet and an appropriate location

² As defined in the Framework, which includes land which is occupied by a permanent structure.

for additional dwellings. But based on my observations on my site visit and my findings above I am not satisfied this is the case.

19. The appeal site falls within the setting of the listed building at Cooksferry Farmhouse. In considering whether to grant planning permission for development which affects a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me 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. Significance can be harmed or lost through development within its setting.
20. This listed building is separated from the appeal site by Poole Street and at the Hearing the Council accepted that it would not be impossible to mitigate the effect of the proposal on the setting of this listed building by controlling the details to be approved at the reserved matters stage. These include layout and landscaping. Consequently, I am satisfied that in this case any adverse effect on the listed building may be prevented depending on what is approved at the reserved matters stage. In this respect the proposal would not conflict with Policy RLP 100 of the Local Plan Review which seeks to preserve the setting of listed buildings.
21. Whilst I have not found harm in terms of the listed building, I conclude on this issue overall that the proposal would harm the character and appearance of the area and would not comply with Policies CS5, CS8 and CS9 of the Core Strategy and Policies RLP 9, RLP 10, RLP 80 and RLP 90 of the Local Plan Review. Together these seek that development has regard to the character of the area, relates to and respects and responds to the surroundings and local context and reflects local distinctiveness.

Supply of Deliverable Housing Sites

22. There is a dispute between the main parties over whether the Council can demonstrate a 5 year supply of deliverable housing sites and accordingly, whether paragraph 11d of the Framework is engaged. At the Hearing the Council provided an addendum to their monitoring report, dated August 2019. This indicates the Council can demonstrate a 5.15 year supply, a figure which the appellant disputes. After the Hearing it became apparent appendices to this addendum were not provided. These were subsequently requested from the Council and comments from the appellant were invited.
23. The Council consider the addendum provided is an up-to-date position. But the appellant is concerned the monitoring report continues to have a base date of April 2018 and a monitoring period of 2018-2023. In addition its trajectory now updates selected sites based on information which has come forward in the intervening period. Moreover, recent appeal decisions referred to in the evidence all concluded that the Council could not demonstrate a 5 year housing land supply and removed 10 sites from the trajectory published in April 2019.
24. The Council has included 7 of these 10 sites in the addendum but limited information has been provided as to why these 7 specific sites are considered deliverable³. In particular, whilst applications relating to these sites may have been submitted, I cannot be certain decision notices granting permission for these will be issued or, where they have been granted what progress is being

³ In accordance with the definition in the Framework.

made towards delivery. These uncertainties cast significant doubt on the robustness of the Council's assessment and therefore I cannot be sure that the Council can demonstrate a 5 year supply of deliverable housing sites with the appropriate buffer.

Other Matters

25. The appellant has stated that views expressed in the Council's committee report are contrary to advice received at the pre-application stage. But the way in which the Council handled the application is not a matter for me to consider in the context of this appeal, which I have determined on its individual merits.

Planning Balance

26. Given uncertainty around the Council's 5 year housing land supply position, I cannot be certain that paragraph 11 (d) of the Framework is not engaged. If it is, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. I acknowledge there are benefits of the scheme. These include the provision of new dwellings (including affordable housing) with amenity space on land which is at least in part previously developed. In addition, economic benefits would arise from construction jobs created during construction and a likely increased demand for local services. Subject to the approval of reserved matters, the proposal may also offer an opportunity to increase the permeable area of the site and improve visibility splays.
28. Nevertheless, I consider the harm identified above significantly and demonstrably outweighs the benefits of the appeal scheme when assessed against the policies of the Framework taken as a whole, and so the 5 year housing land supply position is not a determining factor in this appeal.
29. Of the policies which appear in the Council's maintained reason for refusal, the appellant considers Policy CS5 should have reduced weight. This policy seeks to direct housing to within settlement boundaries and so restricts the supply of land for housing. However, this is one of several policies identified above that the proposal is contrary to and so even if I ascribe limited weight to this policy there is conflict with the development plan overall and so this does not change my overall conclusion.

Conclusion

30. For the reasons given above the appeal is dismissed.

L Perkins

INSPECTOR

