

Appeal Decision

Site visit made on 12 July 2016

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 August 2016

Appeal Ref: APP/X1925/W/16/3147753

**Land to R/O Reed House, Jackson Lane, Reed, Royston, Hertfordshire
SG8 8AB**

- 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 Mr and Mrs David Tait against the decision of North Hertfordshire District Council.
 - The application Ref 15/02724/1, dated 21 October 2015, was refused by notice dated 22 February 2016.
 - The development proposed is erection of 12 dwellings, including 3 intermediate affordable dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal concerns an application for outline planning permission including details of access. Appearance, landscaping, layout and scale are reserved for later consideration. Although the plan is not marked as 'indicative' or 'illustrative', because all matters apart from access are reserved for future consideration I have dealt with the appeal on the basis that the site layout plan is indicative.

Main Issues

3. The main issues are:
 - Whether the proposal would give rise to significant reliance on private transport.
 - Planning obligations, with particular regard to local infrastructure and affordable housing provision.
 - The effect of the proposal on the character and appearance of the area and its landscape setting.

Reasons

Background

4. The appeal site has a lengthy planning history dating back to 1990. More recently the proposal follows the refusal of three previous applications for residential development and the subsequent dismissal of three related appeals.
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The most recent appeal was dismissed in March 2015¹ and proposed the erection of 13 dwellings and a business/IT building. Prior to that, an outline application for 13 dwellings was refused in 2011² and the subsequent appeal was dismissed in 2012. In 2004³ an outline application for 24 dwellings was refused and the subsequent appeal was also dismissed. I have been provided with a copy of the 2015 appeal decision and have had regard to this decision in the determination of this appeal.

Policy context

5. It is not in dispute that the Council is unable to demonstrate a five year housing land supply, as required by the National Planning Policy Framework ('the Framework') and on the evidence before me the situation appears to have not improved since the determination of the last appeal in 2015. It follows from paragraph 49 of the Framework that relevant policies for the supply of housing cannot be considered to be up-to-date.
6. The Council's second reason for refusal cites a conflict with Policy 6 of the North Hertfordshire District Local Plan No. 2 with Alterations ('LP'). This sets out particular criteria to be met if development is to be allowed in rural areas beyond the Green Belt, such as the present location. The underlying purpose of the policy is recognition of the countryside as a highly valued resource which should be protected for its own sake. Such an approach does reflect a core planning principle of the Framework which is to recognise the intrinsic character and beauty of the countryside. However, it also differs from the Framework which seeks to ensure housing is located where it will enhance or maintain the vitality of rural communities.
7. Nevertheless, insofar as this policy acts to limit the location of housing development it can be considered to be a policy for the supply of housing in the terms of the Framework. The proposal would not satisfy any of its criteria and the proposal would therefore conflict with this policy. This view is consistent with that of previous Inspectors.
8. In cases where paragraph 49 of the Framework applies, paragraph 14 states that 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; or specific policies in the Framework indicate development should be restricted. I have determined the appeal on this basis.

Reliance on private transport

9. The village of Reed lies approximately three miles south of Royston and within a rural area. Local facilities include a school (for ages 3-9), village hall, children's playground, sports field, parish church and chapel. There is a transport café and garage on the nearby A10 and the village is served by a bus service to Royston and Buntingford on Mondays to Saturdays, albeit that the service is limited and somewhat infrequent.
10. The matter of reliance upon private transport by future residents was considered by the previous Inspector in 2015. In summary, he reached the

¹ APP/X1925/A/14/2218194

² LPA Ref: 11/02254/1

³ LPA Ref: 04/01397/1

view that there had been no material improvement in the accessibility of the appeal site since the 2012 appeal decision and that the range of services and public transport facilities does not appear to have significantly changed since that time. He concluded that this would be likely to give rise to a significant reliance on private transport and that this would conflict with relevant requirements of the Framework, including the principle (included in paragraph 17) of actively managing patterns of growth to make the fullest use of public transport, walking and cycling.

11. I am mindful that the Framework advises that all aspects of sustainability should be considered in planning decisions, that local circumstances should be taken into account (paragraphs 9 and 10), and that opportunities to maximise sustainable transport solutions will vary from urban to rural areas (paragraph 29). However, it also seems to me that there has been no material improvement in accessibility since the date of the last appeal decision and the range of services and public transport facilities available in Reed does not appear to have changed since that time.
12. Taking the above factors together, I see no reason to take a different view to that of my colleague in 2015 in respect of this matter. The introduction of 12 new dwellings would add substantially to private car traffic and the number of journeys into nearby towns. In my view, residents would be heavily reliant on private motor transport and would opt to use private cars rather than more sustainable modes of transport for trips to and from shops, school, work, health, leisure and other day to day services and facilities further afield.
13. Accordingly, I consider that the scheme would be likely to give rise to a significant reliance on private transport. Furthermore, there is no compelling evidence to suggest that the proposal would enhance or maintain the vitality of the rural community. The provision of a new footpath to Jackson's Lane would not mitigate this harm as services and facilities within Reed are very limited, although the issue of mitigation to offset this harm is a matter I return to later.
14. The appellant again refers to the fact that the Council has previously granted planning permission for a development of 12 dwellings on a site at Brickyard Lane, Reed. It is contended that this approval is recognition by the Council that Reed can be viewed as a sustainable location for new housing development. The Council contend that the particular circumstances and features of that case were sufficient to overcome the concerns raised by its officers, which also included similar reasons for refusal.
15. On the evidence before me, it would appear that there were other material considerations that led members of the Council to a different conclusion than their officers, including that there were existing buildings on the site, it was more integrated with existing development and that the proposals would enhance the Reed Conservation Area. Concerns were raised regarding sustainability but it was decided that the proposal would have positive social and environmental impacts and that these benefits outweighed the impacts. Consistency is important in decision making and I am satisfied that the Council has not been inconsistent in its approach not least because I do not consider that, on the evidence before me, the proposals are directly comparable and in any event each case must be determined on its own merits.
16. For these reasons, the proposal would conflict with the relevant objectives of the Framework, including the principle (included in paragraph 17) of actively

managing patterns of growth to make the fullest use of public transport, walking and cycling and reducing greenhouse gas emissions.

Local infrastructure and affordable housing

17. It is not disputed that the appeal scheme, in order to comply with the requirements of Policy 51 of the LP and the Council's Planning Obligations Supplementary Planning Document 2006 ('SPD'), would need to make contributions towards a range of local infrastructure. It is unfortunate that a draft undertaking was submitted during the application stage but not progressed because the Council advised that a legal agreement was not necessary as the application was being recommended for refusal. Whatever the case may be, it is an issue before me and I must consider it.
18. I have been provided with detailed, costed information in relation to the need for contributions towards sustainable transport measures from the relevant highway authority. These seek to directly mitigate the impacts that would arise from the proposal and promote more sustainable forms of transport by upgrading bus stops in the vicinity of the site to encourage users of the development to travel by means other than the private car. On the basis of the information before me, I have no substantive evidence to suggest that such contributions would fail to meet the tests of necessity, relevance and fairness as set out in section 122 of the Community Infrastructure Levy Regulations 2010 and the current guidance contained in the Planning Practice Guidance.
19. However, I do not have such information in relation to childcare, library, education and youth contributions. Whilst I have been provided with the SPD which uses a standard charge approach and sets out the basis for such an approach I have no evidence that such contributions are necessary and directly related to the development. I am mindful that the contributions are not disputed by the appellant, who has also submitted a draft undertaking and contends that the content of which has been previously found acceptable by the Council. However, on the evidence before me such contributions do not pass the statutory tests and I have not therefore taken them into account.
20. One of the main changes to the 2015 appeal scheme is that the proposal now details the provision of three intermediate affordable units. Although there is no policy requirement for such provision, the appellant has included it in recognition that the Parish Council were concerned about the absence of affordable housing when they commented on the last planning application.
21. However, no completed agreement is before me and therefore there is no means of securing the contribution or the requisite amount of affordable housing, which is suggested as a benefit of the scheme. Whilst I have some sympathy with the appellant's position, the Planning Inspectorate's Procedural Guide Planning Appeals – England 2016 is clear that a certified copy of the executed obligation should be received no later than seven weeks from the appeal start date and I have had no indication that the appellant intended to submit one.
22. As such, in the absence of a completed agreement the proposal fails to make adequate provision for local infrastructure in terms of a contribution to sustainable transport measures and would conflict with Policy 51 of the LP and the SPD which requires development to contribute towards the provision and maintenance of facilities arising as a direct result of it.

Character, appearance and landscape setting

23. The Council's second reason for refusal, which relates to the siting, design and layout of the scheme, refers to Policies 6 and 57 of the LP and to the core principles and Section 7 of the Framework. The Council contend that notwithstanding the Inspector's conclusions on this matter in the 2015 appeal, given the likelihood that the vegetation on the northern boundary being removed by future owners there would be increasing pressure for its removal. Furthermore, that the Council is fully justified in still raising this as an area of concern given the impact of housing on this site within the wider landscape and character of the area.
24. The appeal scheme proposes groups of buildings around the edge of the site with amenity space in the middle and on The Joint frontage. This arrangement would be broadly consistent with the pattern of tight-knit building groups separated by more open areas within the locality. The screening along the site's northern boundary remains in place and could be retained by condition and I agree with the Inspector in 2015 that this would have the effect of limiting views towards (or from) the open countryside beyond.
25. I also see no reason in principle why appropriate building designs and sympathetic landscaping within the site could not be achieved and these are matters that fall to be considered at the reserved matters stage. Subject to this, I am satisfied that the proposal would not harm the character and appearance of the area or its landscape setting and would not conflict with Policies 6 and 57 of the LP or the Framework, in this respect.

Overall conclusions

26. The Framework at paragraph 7 defines three dimensions to sustainable development, expressed as a need for the planning system to perform an environmental, economic, social, and environmental role. These roles should not be undertaken in isolation, because they are mutually dependant.
27. The Framework seeks to boost significantly the supply of housing. Twelve dwellings would make a modest contribution to housing supply in the District. Given the increased requirement for overall housing need and the Council's own submission that housing delivery has not improved since the determination of the last appeal I attach significant weight to this. However, I attach no weight to the provision of affordable housing as such, given the lack of means of securing such a benefit. It may be that the latter could be secured by condition, but neither party has indicated that they would agree to such a condition and the other contribution would remain outstanding.
28. In economic terms the proposed development would provide some limited economic benefits as a result of the creation of employment from the construction of the dwellings. There would also be some financial benefit from the New Homes Bonus and support from future residents for the local economy. I attach moderate weight to these economic benefits.
29. Set against this, I have found that the proposal would give rise to a significant reliance on private transport which would conflict with one of the core planning principles of paragraph 17 of the Framework. I attach significant weight to this. The proposal would fail to secure local infrastructure contributions in terms of sustainable transport measures that could potentially mitigate some of

the harm relating to the significant reliance on private transport that I have identified. I also attach significant weight to this and overall, the proposal would fail to fulfil the environmental role. In social terms, I find no meaningful evidence that the proposal would enhance or maintain the vitality of the rural community and therefore I am not satisfied that the proposal would fulfil the social role.

30. Bringing my conclusions together on the main issues, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, the proposal would not be the sustainable development for which the Framework indicates a presumption in favour and therefore there are no material considerations that outweigh the conflict with the development plan.
31. I note that there is some support for the proposal from local residents, that there are matters of common ground which the Council does not dispute, including that the appellant has addressed matters in relation to flooding and flood risk and the Council and statutory consultees raise no other objections. However, support from local residents and such matters do not alter my findings in relation to the main issues.
32. For the reasons set out above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR