



Appeal Decision

Hearing held on 9 October 2018

Site visit made on 9 October 2018

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 November 2018

Appeal Ref: APP/X1925/W/18/3194048

Land north of Mill Croft, Royston Road, Barkway

- 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 Jordan Day of Arbora Homes against the decision of North Hertfordshire District Council.
 - The application Ref 17/00700/1, registered on 4 May 2017, was refused by notice dated 21 July 2017.
 - The development proposed is outline application (including Access) for the erection of up to 25 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application was made in outline with all matters reserved apart from access. A development framework drawing has been provided to show a potential form of layout and landscaping. While I have had regard to this drawing, I have treated all elements shown as indicative only with the exception of the proposed access location.
3. The application was refused for four reasons. The third reason related to the absence of a completed and satisfactory legal agreement to address the infrastructure requirements arising from the development. A completed and executed unilateral undertaking (UU) was submitted at the start of the hearing. It contains a number of planning obligations relating to the provision of affordable housing and fire hydrants along with contributions to education, libraries and youth work.
4. At the hearing, although the Council identified some issues with specific wording, there was confirmation that it was satisfied with the contents of the UU in terms of addressing the third reason for refusal. My decision below refers to individual elements of the UU where appropriate. However, given that I am dismissing the appeal, it has not been necessary for me to consider the wording of the planning obligations in detail in terms of compliance with national policy and legal tests.
5. The fourth reason for refusal related to insufficient information on the archaeological potential of the site given that it lies within an Area of Archaeological Significance. An archaeological evaluation report has been submitted by the appellant as part of the appeal. The Council has confirmed that, based on this report, it no longer wishes to contest the fourth reason for

refusal. In light of this, and the submitted UU, I have focused on the two remaining reasons for refusal.

6. At the start of the hearing, the main parties agreed that the site address was as shown in the heading above rather than 'land to the west of Royston Road, Barkway' as stated on the original application form. The parties also agreed that in the absence of an application date that the application registration date should be referred to in the heading above.
7. The emerging North Hertfordshire Local Plan 2011-2031 ('the ELP') is currently at examination and has been subject to hearing sessions. The Inspector's report is awaited. The ELP is not yet adopted and may be subject to further change. Nevertheless, it is at an advanced stage of production with little evidence of unresolved objections to relevant policies or evidence that these policies lack consistency with the NPPF. As such, I can afford reasonable weight to the ELP and relevant policies insofar as they relate to this appeal.

Main Issues

8. The main issues are:
 - (a) the effect of the development on the character and appearance of the surrounding area;
 - (b) whether the location would provide acceptable access to services and facilities; and
 - (c) the effect of the development on the provision of agricultural land.

Reasons

Character and appearance

9. Barkway is a linear village along the B1368, much of which is designated as a conservation area. Royston Road, which leads west and north from the B1368, climbs up from the historic core and contains modern housing fronting the road as well as modern cul-de-sacs at Windmill Close and Periwinkle Close. The road provides the most direct route into Royston and is relatively well used.
10. The appeal site is located on the northern edge of Barkway and comprises a large field roughly triangular in shape. It is beyond the settlement boundary and is considered to lie within the "Rural Area beyond the Green Belt" as defined by Policy 6 of the adopted North Hertfordshire District Local Plan No 2 ("the ALP"). In such locations, Policy 6 seeks to maintain the existing countryside and villages and their character.
11. The site is surrounded by a mix of built development and open land. In terms of the former, there is residential development to the south and north-east on Royston Road and Windmill Close, while a telecommunications mast and commercial buildings at a former military base border the north-western side of the site. In terms of the latter, there is common land and open space adjacent to Windmill Close to the south, along with larger fields and the wider countryside to the west and south-west. Immediately due east of the site on the opposite side of the road is another large field.
12. Boundary treatments around the site vary. The southern boundary is well-vegetated to screen the housing on Royston Road and Windmill Close. This

vegetation continues for a short distance along Royston Road but then peters out for the rest of the road frontage. Vegetation on the opposite side of Royston Road is thicker and more consistent, screening the field to the east as well as the properties to the north-east of the site. There is some vegetation along the boundary with the mast site, but it is not extensive and then stops altogether where the appeal site meets the larger fields to the west with a gap of around 60 metres.

13. The site is located on high ground above Barkway on a plateau with panoramic views. In national landscape terms, the site forms part of National Character Area 87 (East Anglian Chalk) which is characterised by an undulating chalky boulder clay plateau. At a local level, the site and the village to the south is included within the Barkway Plateau in the North Hertfordshire and Stevenage Landscape Character Assessment. Key characteristics include gentle rolling landform, arable land use, regular pattern of field boundaries and ribbon development. The plateau continues westwards towards Reed.
14. The appeal site is largely open to Royston Road. Due to the gap in planting on the western boundary, there are long distance views from the road westwards over the wider countryside including Rokey Wood. These views emphasise the openness of the plateau and contribute positively to the rural setting of Barkway as one enters or leaves the village past the site.
15. Due to the topography and existing buildings and vegetation, the appeal site is not highly visible from roads and public footpaths further away than the site frontage. I visited a number of the locations in the appellant's landscape and visual assessment (LVA) following the close of the hearing. Approaching from Royston towards the junction with Royston Road and The Joint, there is a sharp incline and the built form of housing and the mast site. Approaching from Reed along The Joint, the site is seen between the housing on Windmill Close and the mast site. From the public footpath/byway to the south-west, the land rises up gently and the site is again seen between Windmill Close and the mast site.
16. It was acknowledged by the Council at the hearing that the appeal site is not a valued landscape and has low-medium value. Nevertheless, the open views across the site travelling along the Royston Road frontage are attractive. While the LVA downplays the importance of roads in terms of visual impact, Royston Road is used by multiple people on a daily basis and is not restricted just to motor vehicle traffic. Therefore, I consider that the appeal site forms an important part of the character and appearance of the surrounding landscape and the setting of Barkway.
17. The proposed development would occupy the south-eastern half of the appeal site to avoid the clearance zone for the mast in case it ever fell. However, even restricted to this half of the site, residential development of up to 25 units would impede on existing views across the site from the road frontage and likely obscure long distance views to Rokey Wood. The openness of the plateau would also be eroded. The proposed screening along the Royston Road frontage and within the gap on the western boundary would meet national and local landscape guidelines to promote hedgerow restoration. However, such screening would further erode the views and open qualities of the site.
18. The LVA identifies the overall effect on the site and immediate context, including the views from the road frontage to be moderate adverse at completion of the development falling to minor adverse 15 years on. However,

there would still be an obvious change to views and landscape characteristics on the immediate approach to and from the village and so I regard the negative effects to be significant.

19. Viewed in the approaches along The Joint to the west and Royston Road to the north of The Joint, as well as from the public footpath/byway to the south-west, there would likely be views of new housing. However, this would be against the context of existing development and would be partly screened by topography, and so would not detract greatly from the setting of the village. However, the lack of negative landscape and visual impact from these locations does not lessen the negative impact on views from the site's road frontage.
20. The proposed public open space in the south-west corner of the appeal site could reinforce the urbanisation of this edge of the village. However, it would be some distance from the road frontage and would likely be screened by new buildings. Furthermore, the proposed closing of the gap on the western boundary would limit any views of the open space from the footpath and byway to the south-west. As such, the public open space would not add significantly to the harm I have identified.
21. I am conscious that the ELP looks to allocate three sites on the northern side of Barkway including BK2 and BK3 which adjoin the appeal site to the south and east respectively. However, the three sites are more enclosed by vegetation and do not have the same long distance views across them. Site BK2 is also bounded by housing on Windmill Close and Royston Road, and is described as a rounding-off of the village in that location. Due to the dense boundary vegetation, views of Site BK3 from Royston Road are very limited, with similar restrictions on views from the eastern end of BK3 from the B1368. From a character and appearance perspective, these allocations do not justify the proposed development.
22. The Council has also recently granted planning permission for 6 dwellings on land at Mill Croft immediately to the south of the appeal site. However, this location is similarly contained by vegetation, and development here would have a limited impact on the surrounding area.
23. The Council has expressed concerns that the form of development would not reflect a ribbon or loose-knit pattern of development that characterises Barkway, based on the potential number of dwellings and the size and shape of the appeal site. However, Windmill Close and Periwinkle Close already establish cul-de-sac form along Royston Road, while the Mill Croft development and the allocations at BK2 (20 houses) and BK3 (140 houses) would likely result in similar non-linear development. Nevertheless, even if linear development could be accommodated, there would still be negative effects on views and openness.
24. I note that the Council's Landscape and Urban Design Officer expressed fewer reservations about the landscape impact than the Planning Officer who wrote both the committee report and appeal statement. However, the advice of specialist colleagues is not binding on a planning decision providing that the decision-maker can adequately justify a different position. In this instance, I consider that the Council has adequately demonstrated harm to landscape character and the setting of the village, and I concur with the concerns.

25. Concluding on this main issue, the development would have a negative effect on the character and appearance of the surrounding area. Therefore, it would not accord with ALP Policy 6 as it would not maintain the character of the existing countryside. It would conflict with ELP Policies SP5 and NE1, which recognise the intrinsic value of the countryside, require proposals to respect the sensitivities of the relevant landscape character area, and seek to avoid detrimental impacts on the appearance of the immediate surroundings and landscape character unless there are suitable mitigation measures.
26. The development would also conflict with NPPF paragraph 170(b) which recognises the intrinsic character and beauty of the countryside, NPPF paragraph 124 which seeks high quality places, and NPPF paragraph 127(c) which requires proposals to be sympathetic to local character, including the surrounding built environment and landscape setting. The Council also considers there to be conflict with NPPF paragraph 20(d), but this relates primarily to plan-making.

Services and facilities

27. Barkway is identified as a Selected Village beyond the Green Belt in ALP Policy 7. Policy SP2 of the proposed submission version of the ELP identifies Barkway as a Category A village where general development will be allowed within the defined settlement boundary. Proposed main modifications to Policy SP2 removes Barkway from the list of Category A villages and highlights it as one of five villages identified for growth with 204 homes. As noted above, the ELP is still at examination and subject to further change, but I can afford reasonable weight to the status of Barkway in Policy SP2.
28. The appeal site is beyond the settlement boundary for Barkway as noted above. It has not been demonstrated that the proposed development meets any of the exceptions set out in ALP Policy 6, including addressing an identified rural housing need. Nevertheless, NPPF paragraph 78 recognises that housing should be located where it will enhance or maintain the vitality of rural communities and support local services. ELP Policy SP1 seeks to ensure the long-term vitality of the district's villages by supporting growth which provides opportunities for residents and sustains key facilities.
29. From the appeal site, it is possible to walk into the village along Royston Road although a continuous footpath link is currently lacking along the highway verge. It would appear that the approved Mill Croft scheme does not include footpath provision. However, the appellant has indicated that such a link could be provided on land owned by the highway authority along the west side of Royston Road. This could be secured by a negatively worded planning condition and delivered as part of the development.
30. The services and facilities within Barkway include a first school, a public house, petrol filling station, car repair garage, and bus services which could be accessed from the site without needing a car. However, the current provision is limited with no shop and no education provision for children above 9 years of age. The proposed allocation site BK3 includes provision for a local convenience shop, although planning permission has yet to be granted for this site. The appellant has highlighted the range of community activities which take place in the village. While this is positive, there would still be a requirement to travel beyond the village on a regular basis for various services including employment and retail, even with home working and online deliveries.

31. The nature of the road network and topography surrounding Barkway combined with the distances to other settlements means that walking and cycling are not realistic options for most people. For a development of up to 25 dwellings, a reliance on the private car would have negative environmental and social effects in terms of the ability to access services without having to drive, even with short journeys to places like Royston. ELP Policy SP6 seeks to promote sustainable transport modes insofar as reasonable and practicable, which echoes the latest Local Transport Plan for Hertfordshire (May 2018).
32. However, the nearest bus stop is a short distance to the south of the appeal site on Royston Road. It was stated at the hearing that there are six services every weekday to and from Royston from around 7am until early evening, as well as a number of services on Saturdays. While not particularly frequent, the bus service provides a reasonable alternative to the private car including for commuters looking to access train services in Royston. NPPF paragraph 103 recognises that transport solutions will vary between urban and rural areas.
33. I am also conscious of Barkway's status in the development plan including the ELP where around 170 homes are proposed on three site allocations near to the appeal site. These sites would have similar access issues to services and facilities as the appeal site which would only be partially mitigated by the provision of a local convenience shop.
34. The development would conflict with ALP Policy 6 in terms of its location and ELP Policy SP6 in terms of the availability of sustainable transport modes. However, the development would help to support services and facilities within the village in line with ELP Policy SP1 and NPPF paragraph 78, while occupants would have access to a reasonable bus service. Similar accessibility issues would apply to the emerging site allocations while national policy recognises the differences between urban and rural areas. Thus, I give limited weight to the policy conflicts and consider that the development would provide acceptable access to services and facilities.

Agricultural land

35. The appeal site is categorised as Grade 2 agricultural land. The NPPF considers such land to form part of the best and most versatile agricultural land whose economic and other benefits should be recognised in planning decisions in paragraph 170(b). In relation to development plans, NPPF footnote 53 states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. These aspects are also reflected in the Planning Practice Guidance¹ (PPG). The Council has confirmed that it has no relevant policies in either the adopted or emerging Local Plans relating to agricultural land and so national policy and guidance form the principal consideration.
36. It would appear that much of the parish and surrounding area is Grade 2 land, and so areas of poorer quality agricultural land are not easily available for new development around Barkway. While the appeal site is not extensive, it forms a reasonable amount of agricultural land accessible from the larger field to the west via the gap on the western boundary. It does not appear to be currently cultivated, but there is little evidence to indicate that the quality of the land is insufficient or that it cannot be farmed. The development would not represent

¹ Reference ID: 8-026-20140306

a significant loss of agricultural land given the size of the site and the availability of remaining Grade 2 land. However, it would still have a negative effect on the provision of such land in terms of economic and other benefits. Therefore, there would be conflict with NPPF paragraph 170(b) and the PPG.

Planning balance

37. It is common ground that the Council cannot demonstrate a 5 year housing land supply. The supply currently stands at between 2.7 and 3.7 years. As a consequence of the shortfall, policies which are most important for determining the proposal should be considered out-of-date based on NPPF paragraph 11(d). In such circumstances, paragraph 11(d) advises that permission should be granted unless (i) the application of policies in the NPPF that protect areas or assets of particular importance (as defined in footnote 6) provides a clear reason for refusing the proposal or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
38. Being out of date does not mean that a policy carries no weight for the purpose of decision-making. ALP Policy 6 is not entirely consistent with the NPPF in terms of where it seeks to locate housing in rural areas. However, it also seeks to maintain the countryside and its character, which is generally consistent with NPPG paragraph 170(b) which recognises the intrinsic character and beauty of the countryside. Therefore, I consider that the policy can be afforded reasonable weight. I have already noted that reasonable weight can be afforded to relevant policies in the ELP.
39. The development would provide benefits in terms of up to 25 dwellings of which at least 40% would be affordable housing secured through the planning obligation in the UU. The extent of the current shortfall is significant, but the Council point towards the progress of the ELP which would remove the shortfall once adopted. There is little evidence before me to indicate that the Inspector examining the ELP has concerns regarding its soundness and so there is a reasonable chance of the ELP being adopted in the not too distant future.
40. The ELP looks to allocate around 170 homes for Barkway across three sites which would contribute significantly to housing supply in the village and the district overall. The appeal site would provide additional choice and availability in the local housing market, but would only contribute a moderate amount of market and affordable housing even with the current shortfall. Based on the steps being taken to address the shortfall and the likely timescales involved, along with the amount of housing proposed, I afford moderate weight to the benefits of housing provision. In this respect, I concur with a recent appeal decision² following a public inquiry for development on a site at Offley.
41. In terms of other social aspects, the open space is intended for public use and would provide some benefit, although details are limited. Additional population would support the local community and facilities including the village school, but the scale of development means that the benefits would be of no more than moderate weight. The financial contributions in the UU towards education, libraries and youth work are intended to make the development acceptable in planning terms and mitigate the effects of development on existing infrastructure, and so carry neutral weight in the balance.

² APP/X1925/W/17/3187286, dated 31 August 2018.

42. The development would provide economic benefits through the construction process, payment of New Homes Bonus and additional Council Tax receipts, and support for local services and facilities. The argument that future occupants would be of a working age and have families and so contribute more to the economy is possible, but hard to verify. Nevertheless, given the scale of development, I can only give moderate weight to these economic benefits.
43. The enhancement of landscape features, including the introduction of new trees, flora and fauna, and a new open space would largely address the effect of development itself rather than represent particular benefits. These enhancements are also offset by the harm to character I have identified. High quality design would be commendable, but should be provided in all development proposals. Thus, the environmental benefits carry limited weight.
44. I have already identified that the location would provide acceptable access to services and facilities, taking into account the site specific circumstances and the local and national policy context. I have given limited weight to the conflict with ALP Policy 6 insofar as it seeks to restrict housing in the countryside as well as limited weight to the conflict with ELP Policy SP6.
45. There would be adverse impacts in terms of the character and appearance of the surrounding area as well as the provision of agricultural land. In terms of the latter, the amount of land lost to development would not be significant and so I only afford moderate weight to this adverse impact. However, the development would have a significant effect on views across the site and the contribution it makes to the surrounding area in terms of openness and the setting of Barkway. There would be policy conflict with ALP Policy 6 and ELP Policies SP5 and NE1, as well as conflict with NPPF paragraphs 124, 127(c) and 170, which collectively seek to maintain landscape character and recognise the intrinsic character and beauty of the countryside. Therefore, I attribute significant weight to the adverse impacts of development in terms of its effect on character and appearance.
46. As a consequence, the adverse impacts of the development would significantly and demonstrably outweigh the benefits. This weighs against the grant of planning permission. In conclusion, the development would conflict with ALP Policy 6 and ELP Policies SP5 and NE1 as well as national policy. There are no considerations that lead me to conclude against the development plan and the harm I have identified.

Other Matters

47. Interested parties have raised concerns with a number of other matters including highway safety. However, given my findings on the main issues, it has not been necessary to consider them in any detail.

Conclusion

48. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Lisa Allison	Rural Solutions
Daniel Houghton	FPCR Environment and Design Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Kate Poyser	North Hertfordshire District Council
Sam Dicocco	North Hertfordshire District Council
Nurainatta Katevu	North Hertfordshire District Council
Nigel Smith	North Hertfordshire District Council

INTERESTED PARTIES WHO SPOKE AT HEARING:

Councillor Bill Dennis	Barkway Parish Council
Councillor Gerald Morris	North Hertfordshire District Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Written statement, submitted by Councillor Gerald Morris.
2. Written statement, submitted by Councillor Bill Dennis
3. Signed and dated unilateral undertaking, submitted by the appellant.
4. Latest household projections for North Hertfordshire up to 2041, submitted by the local planning authority.
5. Extracts from Hertfordshire's Local Transport Plan May 2018, submitted by the local planning authority.
6. Table of actions for the Local Plan Examination, submitted by the local planning authority.
7. Draft proposed revisions to Policy SP2 of the emerging Local Plan, submitted by the local planning authority.
8. Tracked changes to the draft unilateral undertaking, submitted by the local planning authority.

DOCUMENTS RECEIVED AFTER THE HEARING

1. Plan showing the extent of highway owned land along Royston Road, submitted by the appellant.
2. Site and location plans and decision notice for planning permission ref 18/00329/FP for development of 6 dwellings at Mill Croft, Royston Road, Barkway, submitted by the local planning authority.