
Appeal Decision

Site visit made on 14 October 2014

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 18 November 2014

Appeal Ref: APP/W1850/A/14/2221854
Tump Lane, Much Birch, Herefordshire HR2 8HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Green of MG Property Consultants against the decision of Herefordshire Council.
 - The application Ref 131680/F, dated 31 May 2013, was refused by notice dated 12 March 2014.
 - The development is the proposed erection of 12 affordable dwellings, comprising a mixture of 2 and 3 bed houses on land off Tump Lane, Much Birch, Herefordshire.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are whether new dwellings in this location would be sustainable, having particular regard to:
 - highway safety, and in particular pedestrian facilities in the area;
 - the effect of the proposal on the character and appearance of the area, and in particular the design and appearance of the new dwellings; and
 - whether there is a suitable mechanism to secure the delivery of affordable housing on the site.

Reasons

3. The Herefordshire Unitary Development Plan (UDP) recognises that there is a need for additional land to be released for affordable housing to help meet local needs in the rural areas. Saved Policy H10 of the UDP states that exceptionally affordable housing may be permitted on land adjoining an established rural settlement subject to certain criteria being met. This includes that there is an identified need for the scheme, that the character of the area is respected, that the site is accessible to facilities and public transport and that there is a mechanism to ensure that the houses remain affordable in perpetuity.
4. However, where a five-year supply of deliverable housing sites cannot be demonstrated, local plan policies for the supply of housing, including Policy H10 cannot be considered up-to-date. The Council acknowledge that it is unable to demonstrate a five-year supply of housing land. In such circumstances, paragraph 49 of the National Planning Policy Framework (the Framework)

makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 of the Framework advises that applications should be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.

5. The Framework, at paragraph 7 identifies three dimensions to sustainable development – economic, social and environmental. The three roles should not be undertaken in isolation, because they are mutually dependent.
6. In terms of the economic dimension, house building is recognised as an important driver of economic growth. There would clearly be some benefits to the construction industry from the proposed scheme. Residents of the new houses would also be likely to support local business in the area. The social role would benefit from the proposed provision of 12 affordable dwellings in an area where the Council consider that there is an identified need.
7. Accessible local services that reflect the community's needs and support its health, social and cultural well-being form part of the social role of sustainability. The services and facilities that both Wormelow and Much Birch offer, at either end of Tump Lane, are in close proximity to the appeal site. I have no doubt that future residents of the new dwellings would support the services in each village.

Highway safety

8. However, although Wormelow and Much Birch are within walking or cycling distance of the site, Tump Lane has an intermittent footway along its length. It is subject to a 40 mile per hour (mph) speed limit, is narrow in places and has no street lighting.
9. A core planning principle of the Framework is that patterns of growth are actively managed to make the fullest use of public transport, walking and cycling. Paragraph 32 further advises that safe and suitable access to the site should be achieved for all people. The appellant is prepared to provide a 116 metre length of footway on Tump Lane towards Wormelow, which would connect with an existing footway. This provision would clearly be a benefit to the village and weighs in favour of the proposal, even though it would not extend all the way to the A466.
10. However, there would be no additional footway provision along Tump Lane towards Much Birch. This is where the primary school and medical centre are located. The new houses would be likely to be occupied by families, some with school age children. Furthermore, it is likely that residents would be registered with the medical centre. In order to access these services by foot, residents of the new dwellings would need to walk within the road for a considerable length, at points where the lane is narrow and on an incline. There is therefore the potential for conflict to arise between pedestrians and vehicles, and there is no refuge for pedestrians along this stretch of road.
11. I have taken account of the appellant's Automatic Traffic Count which identified that the peak periods for traffic along Tump Lane was between 8am and 9am and 3pm and 4pm. These times correspond to times when parents and children would be travelling to and from school. These findings confirm my view that the increased use of the lane associated with residents of the new

housing would result in harm to highway safety. The residual cumulative impact of the scheme on highway safety would be severe. I accept that pedestrians already walk in the road and that there have been no recorded pedestrian or cyclist accidents in the lane. However, these matters do not provide sufficient justification for the proposed scheme.

12. I therefore conclude that residents of the new dwellings would not have a safe pedestrian access to the key facilities in Much Birch. This would result in harm to highway safety. Whilst not a determining factor, the fact that pedestrians would need to walk in the road for a distance to access the facilities in Wormelow adds to this concern. There would therefore be conflict with the objectives of Policies S1, DR3 and H13 of the UDP.
13. There are bus stops on both the A49 at Much Birch and on the A466 at Wormelow. Given my findings above in respect of highway safety, and whilst recognising that access to sustainable transport varies between rural and urban areas, I am not satisfied that a safe and convenient pedestrian route would be provided to the bus stops and to the local services and facilities. As a consequence, residents of the new houses may feel that they have no other choice but to drive to local services and facilities. This would be in conflict with paragraph 29 of the Framework which advises that people should be given a real choice about how they travel. There would also be conflict with the objectives of Policies S1, H13, DR2 and DR3 of the UDP in this respect. In reaching this conclusion, I have had regard to an appeal decision that the appellant has drawn to my attention in Tewkesbury¹. However, I have not been provided with detailed plans of this scheme and given the nature of the proposal in this instance, I do not find it directly comparable to the scheme before me. In any event, I am obliged to determine the appeal before me on its merits, and this is what I have done.

Character and appearance

14. Policy H13 of the UDP requires proposals to take an integrated and comprehensive approach to development, which respects the townscape and landscape context of the site, and the character and appearance of the locality. This is reinforced by Policy DR1, which requires development to be of an appropriate layout, density, scale, mass, height, design and materials. Consideration should be given to the local environment including longer range views and topography. Policy LA3 of the UDP requires development outside of rural settlements to respect the landscape setting of the settlement. Whilst pre-dating the Framework, these policies are broadly consistent with the core planning principle of the account that should be taken of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
15. The appeal site is roughly rectangular in shape, bounded to the east and south by native hedgerows. It forms part of a larger field, rising up from the road. On my site visit, I observed that the proposed extension to the built development of this part of Much Birch would be clearly visible from the surrounding countryside, surrounding roads and adjacent public footpath.
16. Although the new dwellings would be set back from Tump Lane, they would be more prominent in the street scene than existing residential development. The

¹ Appeal Ref: APP/G1630/a/13/2209001;

bland rear elevation of plots 1-4 would be particularly prominent when approaching the site from Wormelow. Furthermore, whilst of a simple architectural design, I share the Council's concern that the dwellings would appear dominant in the landscape as a result of their scale, which would be exacerbated by the gradient of the site. I note the appellant's willingness to landscape the site, but this would not ultimately mitigate the adverse effects the development would have on the setting of this part of the village and the wider landscape in general.

17. I therefore conclude that the development of an open green area of countryside with 12 new dwellings would be harmful to the character and appearance of the area, even though this impact would be reduced from certain viewpoints as a result of the site abutting the existing built development. There would therefore be conflict with the objectives of Policies H10, S1 and DR1 of the UDP. Furthermore there would be conflict with the Framework's core planning principles in respect of high quality design and the account that should be taken of the different roles and character of different areas.

Mechanism to secure affordable housing

18. Whilst noting that the appellant would be prepared to enter into a Section 106 Agreement to ensure that the dwellings remained affordable, I am unable to attach significant weight to the unsigned and undated draft S106 Agreement submitted with the appeal. Notwithstanding this, I am satisfied that a suitably negatively worded planning condition could be imposed in the event that the appeal was successful to secure affordable housing on the site, in accordance with the guidance on conditions in the Planning Practice Guidance.

Conclusion

19. There would clearly be benefits of the new scheme, including increasing the length of footway along Tump Lane, providing new affordable housing in an area where there is an identified need, as well as social and economic benefits including payment of the New Homes Bonus, and the houses being built to Code Level 3 Lifetime Homes. However, I find that the adverse impacts of the proposal, including harm to highway safety and harm to the character and appearance of the countryside, and the failure of the scheme to accord with both national and local planning policies, would significantly and demonstrably outweigh the benefits that would result. As such, the proposal would not represent sustainable development for which the Framework indicates there is a presumption in favour.
20. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR