
Appeal Decision

Site visit made on 7 September 2015

by I Radcliffe BSc(Hons) MCIEH DMS

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

Decision date: 29 September 2015

Appeal Ref: APP/K2420/W/15/3025088

Land south of Bonita, Bullfurlong Lane, Burbage, Leicestershire LE10 2HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Andrew Milne against Hinckley & Bosworth Borough Council.
 - The application Ref 14/00715/OUT, is dated 23 July 2014.
 - The development proposed is a residential development of 32 dwellings with vehicular access.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural matters

2. The application was submitted in outline, with only access, layout and scale to be determined at this stage. During the course of the application the description of the proposed development was revised from 32 dwellings to 14. I have dealt with the appeal on this basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site. A unilateral planning obligation made under section 106 of the Act has also been submitted as part of the appeal.

Planning policy

3. The development plan for the area includes the Hinckley and Bosworth Core Strategy ('Core Strategy') and the Hinckley and Bosworth Local Plan ('Local Plan'). The National Planning Policy Framework ('the Framework') is also an important material consideration.
4. Policy 4 of the Core Strategy seeks a minimum of 295 new houses in Burbage. The fact that this level of development has been exceeded therefore does not count against the proposal. The proposals map of the Local Plan identifies a settlement boundary for Burbage. Policy RES5 of the Local Plan seeks to restrict new housing development to within settlement boundaries. The appeal site is located adjacent to but outside the settlement boundary. As a result, for planning policy purposes its location is contrary to this policy. However, the Local Plan was adopted some 14 years ago in the context of different national planning policy. As a consequence, and having regard to the advice in paragraph 215 of the Framework less than full weight should be given to policy RES5.

Main Issues

5. The main issues in this appeal are;
- the effect of the proposed development on the character and appearance of the area; and,
 - whether the proposal would be a sustainable development and the extent of the housing land supply in the Borough.

Reasons

Character and appearance

6. The appeal site lies within the open countryside adjacent to Burbage's settlement boundary. A core planning principle of the Framework is that the intrinsic character and beauty of the countryside should be recognised in decision taking. Policy NE5 of the Local Plan which, amongst other matters, seeks to protect the character and appearance of the countryside and its landscape is consistent with the Framework in this respect and significant weight should be attached to it.
7. The Hinckley and Bosworth Character Assessment identifies the countryside in which the appeal site lies beyond the southern edge of Burbage as having a gently rolling landform with a pattern of medium sized fields bounded by hedgerows with some hedgerow trees. As an open hedged field of pasture the appeal site conforms to the Assessment and makes a positive contribution to the character and appearance of the countryside and landscape of which it forms a part. The proposed development would urbanise the site and result in the loss of this area of countryside to development.
8. Surrounded on three sides by open countryside the scale of the housing proposed, although laid out set back slightly within the site, would extend above the height of the boundary hedge around the site. As a result, the proposed outward facing housing scheme would appear as an isolated finger of development that would protrude into the rural landscape. The protrusion would be readily visible in public views from the well used public footpaths through neighbouring fields to the east and south of the site. It would also be apparent in public views from the bottom of Bullfurlong Lane and in private views from the adjacent neighbouring house. Landscaping of the proposed scheme and appearance are reserved. However, good design in relation to these matters and retention of features such as the hedgerow and occasional trees within it would not prevent the loss of countryside to development, the urbanisation of the site and the significant adverse effects that I have described.
9. Other permissions on the southern side of Burbage have been referred to in support of the appeal¹. However, as these sites abut the settlement on two sides they relate better to the settlement than the proposal before me. I am therefore satisfied that these developments are not directly comparable to the appeal proposal. As a result, they have not altered my finding in relation to this issue.

¹ References 13/00094/FUL, 12/00154/FUL & 13/00147/FUL

10. Taking all these matters into account, I therefore conclude that the proposed development would cause demonstrable harm to the character and appearance of the countryside and the landscape setting of Burbage. This would be contrary to the objectives of policy NE5 of the Local Plan.

Sustainable development

11. Sustainable development is at the heart of the Framework. Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Burbage is designated as a local centre by the Core Strategy. It has a range of services and facilities to meet the day to day needs of residents including shops, primary schools and medical practices. With regular bus services operating along Coventry Road to Hinckley the services and facilities not available in the settlement, together with Hinckley railway station, are accessible by public transport.
12. A number of the facilities in Burbage and the bus stops are within comfortable walking distance of the appeal site. However, the footways along Bullfurlong Lane are significantly narrower than that sought by national guidance contained within 'Manual for Streets'². Minimum widths measured during the site visit were less than a metre. Given the comparatively narrow nature of Bullfurlong Lane, where wider sections of footway do exist, I saw that they were often compromised by vehicles parked half on the footway in order to allow other vehicles to easily pass. As a result, a poor quality environment for pedestrians exists which would discourage future residents of the proposed development from walking to the bus stops, or walking to the services and facilities available in Burbage. The accessibility on foot of local facilities and bus services from the appeal site is therefore poorer than it is reasonable to expect.
13. In terms of the environment, I have found that the proposed development is located within the open countryside and would cause significant harm to its character and appearance and the landscape. In terms of living conditions, at reserved matters stage windows in the houses proposed on plots 1 to 4 could be arranged so as to avoid overlooking of the neighbouring house, Bonita.
14. Economically, the proposal would generate employment during the construction and fitting out of the proposed dwellings. Socially, the additional houses would make a contribution to addressing housing need, including the need for affordable housing.
15. My overall conclusion on this issue is that the social and economic benefits of the scheme would not overcome the significant harm that would be caused to the character and appearance of the countryside and its landscape and the poor accessibility to and from the site for pedestrians. This harm would continue long after the benefits of employment associated with the construction of the development has faded. I therefore conclude, on the overall balance of considerations that the proposal would not be a sustainable development.

Housing land supply

² As this document relates to residential streets it is more relevant than the 'Design Manual for Roads and Bridges' which is the design standard for trunk roads and motorways relied upon by the appellant.

16. Paragraph 47 of the Framework advises that Local Planning Authorities should have sufficient deliverable sites to provide five years of housing against their housing requirements. The position of the Council is that as of the start of April 2015 it has a 5.69 year supply. However, questions have been raised about whether the housing requirement should be higher to address potential economic growth to 2031. As a result, I find that the evidence that has been provided on this matter is inconclusive.

Other matters

17. On the basis of the evidence that I have read and what I saw at the site visit the proposed site access would be adequate for vehicles to safely enter and leave the site.

Conclusions

18. The proposed development would cause significant harm to the character and appearance of the countryside and the landscape setting of Burbage. It would also have poorer accessibility for pedestrians than it is reasonable to expect. As a result, it would not constitute a sustainable development.

19. In terms of the supply of deliverable housing sites, I have found the evidence is inconclusive. Nonetheless, even if there is not such a supply, the contribution of the fourteen dwellings proposed towards addressing this issue would not outweigh the harm to the character and appearance of the area and the fact that the proposal would not be a sustainable development. Having regard to paragraph 14 of the Framework, the adverse impacts of the proposed development would significantly and demonstrably outweigh its benefits.

20. Contributions are sought in accordance with the development plan to mitigate the effect of the proposed development on local infrastructure and to provide affordable housing. The tests in paragraph 204 of the Framework and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) apply to planning obligations. However, in this case as the appeal is to be dismissed on its substantive merits it is not necessary to assess the submitted agreement against the requirements of Regulations 122, 123 or paragraph 204.

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

Ian Radcliffe

Inspector