



## Appeal Decision

Site visit made on 26 April 2016

by **Anne Jordan BA (Hons) MRTPI**

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

Decision date: 19 May 2016

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**Appeal Ref: APP/K2420/W/16/3142493**

**Land adjacent to Hill Rise, Station Road, Desford, Leicestershire, LE9 9FP**

- 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 R Raynor against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 15/00996/OUT, dated 11 September 2015, was refused by notice dated 10 November 2015.
  - The development proposed is 5 dwellings (including 2 x affordable).
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was made in outline form with all matters reserved.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

#### *Policy Background*

4. The Development Plan for the area is made up of the *Hinckley and Bosworth Core Strategy (CS)*, which was adopted in 2009 and the *Hinckley and Bosworth Local Plan (LP)* which was adopted in 2001. Policy 7 of the CS identifies Desford as a Key Rural Centre and seeks to support the provision of housing within its settlement boundaries. Saved Policy RES5 of the LP also seeks to restrict new residential development to within settlement boundaries. Saved Policy NE5 of the LP seeks to protect the countryside for its own sake by resisting residential development within it. Policy BE1 of the LP seeks development which safeguards and enhances the existing environment and avoids the loss of features which contribute to the quality of the local environment.
  5. Both adopted plans predate the *National Planning Policy Framework (The Framework)*. The Framework advises where a development plan is out of date, due weight should be given to the policies within it in accordance with their degree of consistency with the guidance contained within the Framework. The Framework varies from the Local Plan in that rather than precluding
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development outside defined settlement boundaries it refers instead to the need to resist isolated new dwellings in the countryside. However, the Framework also recognises the intrinsic character and beauty of the countryside. Therefore insofar as the policies above seek to protect the countryside and seek to ensure that any development within it enhances its character, the aims of the above plan policies are consistent with those of the Framework.

6. The emerging *Hinckley and Bosworth Development Management Policies Development Plan Document (DPD)* is still in preparation. Policy DM4 seeks to protect the open character of the countryside by resisting unsustainable development. Policy DM10 seeks development which enhances the surrounding area. These aims broadly reflect those of the Framework expressed above. Nevertheless, as I cannot be sure that these policies will be adopted in their current form, this reduces the weight I can attribute directly to them.

#### *Character and Appearance*

7. The appeal site lies adjacent to the former railway station at Desford, some distance from the main settlement. A ribbon of mostly detached dwellings extends along the eastern side of Station Road, from the station into the village. The western side, which contains the appeal site, comprises open fields which from the elevated railway line are interrupted only by the former station, now known as Station House and the property known as Hill Rise. This sits in a very large garden which immediately adjoins open fields to the rear.
8. The parties dispute whether the appeal site is previously developed land. However, regardless of the site's recent history as it currently appears it is open and largely flat, with some mature trees and planting evident along the site boundaries, particularly towards the front of the site. It sits below the level of the railway line and Station House and in views from the highway, due to the absence of development, and the planting and trees towards the front, it is perceived as part of the open and undeveloped belt of countryside to the west of Station Road. In views from the rear, from the public footpath and across farmland, its openness, and the planting on it, contribute to the rural character of the area.
9. The application is for 5 dwellings. In order to facilitate development trees and vegetation would need to be cleared along the site frontage. This would have a slight urbanising effect upon the verdant character of this part of Station Road which would be apparent on the approach from the south. However, it would be in views from the rear that the effects of the proposal would be most striking. Taking into account the shape of the site, and the width of its frontage, in order for the proposed amount of development to be comfortably accommodated it is likely that the dwellings would extend significantly beyond the footprint of Hill Rise and Station House which both sit relatively close to Station Road. As a result, even though the development would sit between two existing dwellings, it would appear very prominently visible in wide ranging views across the open fields from the west and south. This would be notable from the public footpath where it would have an intrusive and erosive effect upon the rural character of the landscape in this location.
10. I have considered whether the effects of the development could be mitigated by planting. For such screening to itself not appear intrusive in the rural

landscape, a natural hedged boundary would need to be employed. Taking into account the likely height of even a single storey dwelling, such planting would be unlikely to effectively screen development of the quantum proposed. I have also considered the examples of other residential development, closer to Desford, put forward by the appellant. However, these are some considerable distance from the appeal site and so have little bearing on the character of the site before me.

11. Of the policies put forward by the Council I consider policies BE1 and NE5 to be most relevant. Due to the extent of development proposed the proposal would fail to enhance the established character of the countryside in this location. It would thereby conflict with guidance in these policies which together seek to resist development which would have an adverse effect on the character and appearance of the local landscape. It would also conflict with guidance in the Framework, which seeks to recognise the intrinsic character and beauty of the countryside, and which seeks to resist development which fails to improve the character or quality of an area.

*Other Matters*

12. I note the comments of neighbours in relation to potential overlooking, and drainage issues, and the concerns of the Council in relation to noise. These matters could be resolved by appropriate measures secured by reserved matters and relevant conditions and therefore do not weigh against the proposal.
13. The parties dispute whether the Borough has a five year supply of housing land. Based on the information put to me I have no reason to dispute the Council's assertion that a 5 year supply can be demonstrated. Nevertheless, the proposal would provide 5 dwellings, in a location which the parties agree is relatively accessible to services, and which would add to housing supply. Having regard to the impetus for growth in the Framework this weighs in favour of the proposal.
14. Finally, the proposal is described as including an element of affordable housing, at a level in accordance with provision outlined in Policy 15 of the CS. In the light of the recent ruling in the Court of Appeal<sup>1</sup>, in relation to the provision of affordable housing on small sites, the guidance in the Written Ministerial Statement of the 28 November now applies and is a significant material consideration to which I must have regard. The appellant has indicated his willingness to enter into a planning obligation to secure affordable housing, although no such agreement is included with the proposal. Therefore regardless of changes to national policy, as I cannot be assured that the development would deliver any affordable housing, I cannot attribute any weight to the matter. I have therefore not considered it expedient to seek the parties' views on the recent change to national policy, as it would not in any case, alter my overall conclusions.

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<sup>1</sup> Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441 which finds that the policies in the Written Ministerial Statement of the 28 November 2014 as to the specific circumstances where contributions for affordable housing and tariff-style planning obligations should not be sought from small scale and self build development, must once again be treated as a material consideration.

**Conclusion**

15. The proposal would be harmful to the character and appearance of the countryside in this location. The small contribution to housing provision would not outweigh this harm. The development cannot therefore be considered a sustainable form of development. Accordingly, for the reasons outlined above, and having regard to all other matters raised, the appeal is dismissed.

*Anne Jordan*

INSPECTOR