
Appeal Decision

Hearing held on 9 April 2015

Site visit made on 9 April 2015

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 18 June 2015

Appeal Ref: APP/Y2810/W/14/3001704

Land north of Ordnance Road (off Croft Way/West Street), Weedon Bec, Northamptonshire, NN7 4QX

- 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 the War Department Farm Partnership against the decision of Daventry District Council.
 - The application Ref: DA/2014/0369 dated 15 April 2014, was refused by notice dated 17 July 2014.
 - The development proposed is an outline application for residential development (showing 26 houses).
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Decision

1. The appeal is dismissed.

Application for Costs

2. At the Hearing an application for costs was made by the War Department Farm Partnership against Daventry District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was made in outline with all matters except the means of access reserved for subsequent approval. However, the application was also accompanied by an indicative site layout, sections and perspective views which I shall treat as being for illustrative purposes only. Other supporting information included a Flood Risk Assessment, an Archaeological Evaluation, a Heritage Statement, a Waste Audit, and a Design and Access Statement.

Main Issues

4. I consider there are three main issues in this case:
 - The effect of the proposed development on the character and appearance of the area, having regard to national and local policies which seek to resist development in the countryside.
 - The effect of the proposed development on the setting of nearby listed buildings (former Royal Ordnance Depot).

- Whether the proposed development should be considered sustainable in the overall planning balance having regard to such matters as the Council's housing land supply position.

Reasons

Policy Context

5. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* makes it clear that determination of an application must be made in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan comprises the saved policies of the *Daventry District Local Plan (LP)*, adopted 1997, and the *West Northamptonshire Joint Core Strategy Local Plan (Part 1) (JCS)*, adopted December 2014.
6. Paragraph 215 of the *National Planning Policy Framework* (the Framework) says due weight should be given to relevant policies in existing plans according to their consistency with the Framework. Although the LP policies were originally adopted in 1997, and saved in 2007, I consider the objectives of those to which I have been referred are broadly consistent with the aims of the Framework, one of the core principles of which is the need to recognise the intrinsic character and beauty of the countryside.
7. LP Policy HS22 says that planning permission for residential development in the restricted infill villages (of which Weedon Bec is one) will be permitted provided that (A) it is on a small scale, (B) is within the confines of the village, or (C) does not affect open land which is of particular significance to the form and character of the village. LP Policy HS24 states that planning permission will not be granted for residential development in the open countryside other than development essential for the purposes of agriculture, or for the replacement of existing dwellings. LP Policy GN1 (F) is a more general policy which states that the granting of planning permission will be guided by the need to severely restrain development in the open countryside.
8. Although not referred to in the decision notice, which pre-dated adoption of the JCS, the parties have referred to several relevant JCS policies which are relevant to this appeal. JCS Policy S1 seeks to direct development to the main towns, stating that such development will be limited, with the emphasis being on enhancing and maintaining the distinctive character and vitality of rural communities. JCS Policy S3 sets out the scale and distribution of housing development for the various districts.
9. JCS Policy R1 sets out a spatial strategy for the rural areas where development will be guided by a rural settlement hierarchy to be determined Part 2 Local Plans which are being prepared by the constituent Councils according to the local need of each village and their role within the hierarchy. However the emerging Daventry Part 2 LP is at a very early stage in its preparation and cannot be afforded any weight. Therefore, and as stated in paragraph 16.9 of the JCS, until a rural settlement hierarchy has been defined, including specific site allocations and whether or not to define settlement boundaries, the saved LP policies will continue to apply in this regard.
10. JSP Policy H1 is also relevant and says housing development shall make the most efficient use of land having regard to various considerations including the

location and setting of the site, the character and density of the area and accessibility to jobs and services.

Effect on the form and character of the village and open countryside

11. The appeal site, about 0.94ha in area, is located immediately west of Neneside Close, a residential development on the edge of the village and north of Ordnance Road, a farm access track and public footpath. On rising ground to the south of Ordnance Road is the residential development of King's Park which is bordered by another public footpath from Higher Weedon which offers extensive views over the appeal site and beyond. The site lies south of the Fawsley Stream, a tributary of the River Nene, beyond which open land rises towards Cavalry Fields Housing Estate and the listed buildings of the former Royal Ordnance Depot (the "Depot"). The western and part of the southern site boundaries abut countryside on both sides of the valley. The upper part of the site close to Ordnance Road is fairly level, and forms a plateau area, and falls steeply down towards the stream on the north side. The site is used as pasture land and is part of an extensive agricultural holding which encompasses much of the land to the west and north along the valley.
12. The current application has been revised following refusal of an earlier scheme in an attempt to overcome the concerns of the Planning Committee, Landscape Officer and Conservation Officer. Significantly, the number of dwellings has been reduced from 30 to 26, the area devoted to open space increased, a mature oak tree retained, and a hedgerow proposed on the western boundary. The illustrative drawings indicate that the layout has been designed to reflect the character and appearance of the Depot buildings with four roughly parallel rows of dwellings on the highest part of the site avoiding the flood plain. The plans illustrate that the scheme would be an open-fronted development, with modest enclosed rear gardens, to allow views through to the Depot from the Ordnance Road public footpath.
13. Nonetheless, the appeal proposal would amount to the formation of a small new housing estate on what is currently farmland. Even as amended I consider the scale of development in this location would harm the subtle transition from the built up part of the village to the open countryside of the Fawsley Stream valley. As a result, the character and setting of the village would be irrevocably changed through the loss of this open land.
14. Any new built development would significantly erode the rural feeling which currently pervades the site, and is still evident in views eastwards along the Ordnance Road footpath towards the existing built edge of the village. This is partly due to the bungalows on Neneside Close being set at a lower level and thus largely concealed from view by higher ground within the appeal site; and this open aspect contributes much to the character and setting of the village. The rear gardens of houses on King's Park, which extend down to the footpath, also contribute towards the sense of leaving the built up part of the village itself and entering open countryside.
15. Existing open views on approaching the village from the south and west along the footpaths would be harmed by the intrusion of the proposed two-storey dwellings, the degree of harm being exacerbated as a consequence of the dwellings being two-storey, and located on the highest part of the site.

16. The Ordnance Road footpath itself is remarkably rural in character, due in no small part to the established hedgerow and trees along its northern side, which would be lost as a result of the proposed development. The proposed replacement hedge would occupy a cramped strip of land between the footpath and new service road, and in my view would not adequately mitigate the impact of the development or help to maintain the rural character.
17. Furthermore, additional planting along the western boundary and within the site is unlikely to adequately screen the proposed dwellings, and would take many years to reach maturity. The formation of the vehicular access by removal of mature vegetation at the West Street/Croft Way 'elbow', would also open up views of the proposed development, and introduce an urban feature where none exists to the further detriment of the character and appearance of this part of the village.
18. I recognise that the design, scale and siting of the dwellings would be the subject of further consideration at the reserved matters stage, and accept that a significant part of the site area would be devoted to an area of managed private open space; a 'buffer zone' to keep development away from the stream and the steepest part of its southern bank. Nonetheless, this does not overcome the visual harm arising from the built development that I have identified above.
19. I appreciate that the appeal site does not lie within a special landscape area, or has any other designation due to its landscape quality. However, this does not alter my view that this open land is an important part of the setting of the village, and that the appeal proposal would cause significant visual harm. Although I accept the transitional nature of the appeal site, I consider that in policy terms it falls to be considered on the basis of policies relating to development in the countryside. In this regard Paragraph 17 of the Framework makes it clear that account must be given to the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside.
20. I therefore conclude on this issue that the proposal would result in unacceptable encroachment into an area of open land that is important to the character, setting and form of the village, and the surrounding open countryside. As such the proposal would conflict with LP Policies HS22 (B) (C), HS24, and GN1 (F).

Effect on the setting of nearby listed buildings

21. The history, development and significance of the former Royal Ordnance Weedon Depot is described in a Conservation Plan (for the storehouse enclosure) prepared by Liv Gibbs Historic Environment Consultancy, adopted by the Council as Supplementary Planning Guidance. The Depot is a designated heritage asset of great historical interest and was constructed between 1804 and 1816 as a planned military/industrial complex with its own defensible transport system and surrounding walls. Although there was some demolition after 1965 when its military storage use ceased, the impressive storehouse enclosure with its eight massive warehouse buildings, and the detached magazine enclosure further west with a series of double magazines still survive, as do the original gatehouses and a section of the canal.
22. The national significance of the complex is recognised by the highly graded listed status (mainly Grade II*) of the individual buildings and structures.

However, its collective value is of even great significance, being a unique surviving example of a planned inland military/industrial complex. The various views in and around the complex, and its relationship to the surrounding landscape comprise an important part of that significance, and it is the effect of the proposed development on the setting of the buildings which I shall address in this appeal.

23. Sections 16(2) and 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* require the decision-maker, in considering whether to grant listed building consent for any works affecting a listed building or its setting, to have special regard to the desirability of preserving the building or its setting. LP Policy GN2 (F) says planning permission will normally be granted for development where it will not adversely affect a conservation area, listed building, or their settings. JCS Policy BN5 similarly says that heritage assets and their settings and landscapes will be conserved and enhanced in recognition of their individual and cumulative significance and contribution to local distinctiveness and sense of place. Although mainly concerned with securing sympathetic new uses for the buildings, JCS Policy BN8 refers to the need to preserve and enhance the heritage value of the site and its setting.
24. Paragraph 132 of the Framework sets out that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to that asset's conservation. It goes on to note that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting.
25. The Conservation Plan describes the importance of the open land between the Depot and Fawsley Stream to the setting of the heritage asset. This land was part of the original Board of Ordnance ownership when the Depot was built and was initially intended to be kept open. However, in the late 19th century a gas works was constructed within the central part of this area, and allotment gardens laid out further east. The storehouse enclosure in particular is now almost entirely surrounded by newer development, including a recent housing estate to its immediate east. The Heritage Statement prepared by Beacon Planning suggests that the proposed development would not have any detrimental or visual impact on the setting of the storehouse enclosure, and from what I have read and seen I find no reason to disagree.
26. However, the magazine compound has a more open character and has a more immediate visual relationship with the appeal site. It still retains much of its rural setting and a certain sense of rural isolation. This is clearly evident in views from the appeal site itself, the public footpath alongside the appeal site, the public footpath leading down from Higher Weedon, and from higher ground to the south of the village.
27. I disagree with the appellant that the proposed development would infill the townscape as opposed to projecting outwards further into open countryside. In my view it would do just that. Notwithstanding the separation distance between the proposed dwellings and magazine enclosure, I consider the proposal would harm the special interest of this asset by significantly intruding into its landscape setting. The fact that that this setting has already been compromised to some extent by unsympathetic recent development in much closer proximity does not in my opinion help to justify the proposal in any way. Indeed, it seems to me that it is now all the more important to protect what

remains of the original open setting in order to understand the wider historic context and legibility of these important buildings, and to respect what remains of their original countryside setting.

28. I note that the site's layout has been carefully considered to reflect the linear form and block-like buildings of the storehouse enclosure, and incorporates 'viewing corridors' between the rows of houses. However, I agree with the Council that glimpsed views across the rear gardens and along the access ways of a residential estate would not compensate for the loss of open views across the valley, which contribute to the setting of the heritage assets.
29. I therefore conclude on this issue that the proposal would fail to preserve the setting, and therefore the significance, of nearby heritage assets. Having regard to the advice in the Government's *Planning Practice Guidance*, I consider it would not reach the high hurdle of substantial harm (as defined in the Framework) to the significance of the designated heritage assets, and am satisfied in this case that the degree of harm caused would be less than substantial.
30. Paragraph 134 of the Framework explains that in such situations this harm should be weighed against any public benefits arising from a proposal. In this regard the scheme would provide a modest contribution towards housing land supply including a significant proportion of affordable units. However, whilst I recognise these social advantages of the scheme, the public benefits are not of such substance as to outweigh the harm I have identified to the significance of the heritage assets. As such the proposal would conflict with LP Policy GN2 (F) and JCS Policies BN5 and BN8.

Whether the proposed development should be considered sustainable in the overall planning balance having regard to such matters as the Council's housing land supply position?

31. At the heart of National Policy as stated in paragraph 14 of the Framework, is a presumption in favour of sustainable development. For decision making this means: Approving development proposals which accord with the development plan without delay; and, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework's policies taken as a whole.
32. Paragraph 47 of the Framework requires local planning authorities to identify and annually update a supply of specific deliverable sites sufficient to provide five years worth of housing with a buffer of 5% against their housing requirements, or 20% where there has been a record of persistent under-delivery. It also states that "relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year deliverable supply"
33. When the application was determined (July 2104) the Council said it was able to demonstrate a 5.2 year supply, and as such could rely on its housing supply policies being up-to-date. However, at the date of the appeal submission (December 2014), the Council considered it could not demonstrate a 5-year supply (although no degree of shortfall was indicated). In response, the appellant says that saved LP Policies HS22 and HS24 should be considered out of date in accordance with paragraph 14 of the Framework, and planning

- permission should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits.
34. The position had changed again by the date of the Hearing, where the Council presented an up-to-date assessment of the current position (published 2 April 2105). This was based on the JCS Policy S3 requirement for about 12,730 dwellings in Daventry District over the Plan period (2011–2029), with the rural areas accounting for about 2,360 dwellings.
35. The assessment considers the five year period from 2015/16–2019/20, and for the purposes of calculation a windfall allowance is only included for years 3–5 as it is assumed that all windfall sites likely to be completed in years 1–2 have already been through the planning application process. All sites of 15 dwellings and above were assessed, and the Council contacted landowners and prospective developers to identify anticipated build-out rates. An allowance has also been made for potential planning permission lapses based on past rates. On this basis the Council considers it has 5.94 years supply (assuming a 5% buffer).
36. At the Hearing the appellant argued that this figure was inappropriate, as a 20% buffer should be used. In this regard I was referred to correspondence between Brandon Lewis MP, Minister for Housing and Planning and Councillor Chantler (referred to in a Planning Committee minute concerning a housing proposal at Welton). According to the minutes the Minister had been advised at that time that the Council did not have a 5-year supply, but stated that even if it did, a 20% buffer was required.
37. However, that correspondence and Committee report predated the April 2015 position, and I am not convinced on the basis of the Council's most recent evidence that the under-supply of housing in previous years has been so persistent as to warrant a 20% buffer,. Furthermore, the Council has demonstrated that in the last four years completions have equalled or exceeded the requirement, and in the absence of a definition of what constitutes 'persistent under-delivery of housing', I consider the 5% buffer is appropriate. In any event, even if a 20% buffer were to be applied, there would still be in excess of five years supply (approximately 5.2 years).
38. The appellant also submits that the deliverable housing land supply is over-exaggerated in that allowances for 50 dwellings at sites 3 and 6 (Daventry Abbey South), 75 dwellings at the North-East Daventry SUE, 100 dwellings at sites 7 & 8 (Middlemore, Abbey Road) and 125 dwellings at Northampton College, Badby Road were unlikely to be built-out at the suggested rates in the next 5 years due to significant infrastructure constraints. According to the appellant this would reduce the number of deliverable units to 2383 dwellings, giving a supply of only four years. However, the Council responded that these constraints to development had been fully assessed, and that estimated build-out rates were soundly based and realistic. Based on the evidence before me, I find no reason to doubt the deliverability of these sites at the indicated rates.
39. Therefore, and irrespective of whether a 5% or 20% buffer is applied, the Council have demonstrated that a five year supply of deliverable housing land is available, and it flows that Paragraph 49 of the Framework is not engaged. Therefore, the development plan policies referred to above, and with which the proposal conflicts, irrespective of whether they are relevant to the supply of housing or not, are up-to-date and continue to attract full weight.

Section 106 Agreement

40. A signed and dated planning obligation in the form of an Agreement under Section 106 of the *Town and Country Planning Act 1990* was submitted after the date of the Hearing. It includes an education (primary school) contribution assessed on the number of bedrooms per dwelling, contributions for an indoor youth centre, outdoor sports provision, a play area, and allotments (all in the Weedon area), together with a requirement that at a percentage of the dwellings are “affordable” as defined in the Framework’s Glossary, and in accordance with the prevailing policy requirement. The owner also covenants to provide and maintain the open space land within the site prior to occupation of the first dwelling, and for a scheme of future management to be agreed.
41. The Council and appellant agree that these financial contributions and the affordable housing provision would be necessary in the event that planning permission were to be granted, and I note that they accord with the Council’s Infrastructure Supplementary Planning Document and LP Policy RC1. Paragraph 204 of the Framework says planning obligations must be necessary to make the development acceptable in planning terms, and fairly and reasonably related to it in scale and kind. As the development is also chargeable development, the S106 needs to satisfy the corresponding tests in Regulation 122 of the *Community infrastructure Regulations 2012* (CIL).
42. Having regard to the representations made, I consider the relevant Policy and CIL legal tests have been satisfied. However, I do not consider the provisions of the Agreement would outweigh the particular harm I have found in this case, nor thus render the development acceptable or overcome the planning policy objections to the proposal.

Other considerations -Sustainability

43. Weedon Bec is a relatively large village with a reasonable range of facilities to meet local needs, and benefits from bus services to the wider facilities in nearby larger towns. However, it is necessary to determine whether the proposal is sustainable in the wider realm in the context of the Framework taken as a whole. Paragraph 7 of the Framework identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The proposal would generate investment and jobs in the area during construction, and future residents would be likely to support village services and businesses. By providing a mix of market and affordable homes, the social dimension would be satisfied.
44. However, my conclusion with regard to the harmful environmental impacts of the proposal on the form, setting and character of the village, its conflict with national and local policies which seek to protect the countryside, and its harmful effect on the setting of listed buildings, represent significant and overriding objections.
45. In weighing all the above benefits and disbenefits together I consider that given the current housing position, the adverse harm which I have identified would substantially and demonstrably outweigh any potential social and economic benefits of the appeal scheme and must be decisive. For this reason I conclude that the proposal does not amount to sustainable development, and the presumption in favour of such development does not therefore apply.

Conclusion

46. Therefore, for the reasons given above and taking into account all other matters raised, including representations from the Parish Council and many local residents, I conclude that this appeal should fail.

Nigel Harrison

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stephen Lucas	Lucas Land and Planning
Ian Chalk	Ian Chalk Architects
Joanna Burton	Beacon Planning

FOR THE LOCAL PLANNING AUTHORITY:

Katherine Daniels	Daventry District Council
Rachel Booth	Daventry District Council
Michael Venton	Daventry District Council
Tom James	Daventry District Council

DOCUMENTS

- 1 Extract from Planning Committee Meeting 11 March 2105
- 2 English Heritage Comments
- 3 Email from Tim Colles (WSP Group) to Stephen Lucas (highway comments)
- 4 Daventry District Council Housing Land Availability (1April 2015)
- 5 Lapsed residential permissions (2011-present)
- 6 Alternative contamination condition
- 7 Costs application on behalf of the appellant
- 8 West Northamptonshire Core Strategy Local Plan (Part 1)

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