
Appeal Decision

Site visit made on 14 May 2014

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 10 September 2014

Appeal Ref: APP/Z2830/A/14/2214754

17 Rectory Lane, Milton Malsor, Northampton, NN7 3AQ

- 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 ARH Devts & Clayson Country Homes against the decision of South Northamptonshire District Council.
 - The application Ref S/2013/0943/FUL, dated 12 July 2013, was refused by notice dated 5 September 2013.
 - The development proposed is erection of two dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have been referred to the Milton Malsor Parish Council Neighbourhood Plan 2013 (NP). It has not been agreed by South Northamptonshire District Council. It is also reliant upon the approval of the emerging West Northamptonshire Joint Core Strategy. I have therefore only afforded the document limited weight and the appellant's statement agrees that this is the correct approach.
3. The appellant refers to the fact that the site was not included within the Conservation Area prior to 2000. Further the appellant suggests that there is no justified reason given by the Council why the site is not within the village confines. Nevertheless for the purposes of application of planning policy, based on the information before me, the appeal site is within the Milton Malsor Conservation Area and the countryside. The appeal is considered on this basis.

Main Issues

4. The main issues are whether the proposal would preserve or enhance the character or appearance of the Milton Malsor Conservation Area (CA) and the effect of the proposal on ecology.

Reasons

Character and appearance

5. Saved Policy H6 of the South Northamptonshire Local Plan states that planning permission will not normally be granted for residential development in the open countryside. Policy EV2 also sets out that planning permission will not be granted for development in the countryside. Both policies set out exceptions

that will be considered, none of which would apply to the appeal proposal. The appeal site is rural for the purposes of application of planning policy. None of the policy exceptions would apply to the proposal and it would therefore be in conflict with this policy.

6. The appellant has drawn my attention to paragraph 22 of the NP which identifies an area for the development of 30 dwellings in the village and submits that this demonstrates the need for housing in the village. It is apparent that a five year supply of deliverable housing land cannot be identified in the area. There is no dispute between the parties on this issue. Paragraph 49 of the National Planning Policy Framework (The Framework) states that in these circumstances relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the Framework states that there should be a presumption in favour of sustainable development. Where relevant policies are out of date permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits taking account of the Framework as a whole.
7. The Council advise that they have adopted Interim Rural Housing Planning Policy (IRHPP). The introduction to the statement notes that it has been prepared outside of the statutory procedures. However, the Council consider that the statement is a material consideration in considering applications for new residential development until such time that the Council has achieved a five year housing land supply or the Joint Core Strategy has progressed. The statement draws attention to the saved LP policies.
8. In addition to policies that consider the principle of development of the site, the proposal would also have to meet the objectives of other LP policies. In particular EV1 and G3 which require new development to be well designed and relate well to its surroundings. In addition the site is within the CA where LP policies EV9 and EV10 require new development to respect the established character and seek to retain open spaces where they contribute to the character of the area.
9. The site is located at the south side of the village and overall the plots are generous and spacious. Furthermore, Rectory Lane and Barn Lane are on the edge of a substantial open area in the village and within the CA. The Church is located to the north on higher ground and the appeal site is opposite the large open area. Overall this part of the CA has a very open and rural feel. It is distinct from the areas to the north and west of the village which have a closer knit and more intimate layout.
10. The site is laid to grass and enclosed in part by a stone wall but overall has an open appearance. I note that the Tree Preservation Order has been revoked. Nevertheless there is planting to the boundaries. I note that it is not identified as being an 'important' area of open space. However, it provides a space in the street scene on Rectory Lane and retains a rural appearance which contributes to the open character of the CA in this location.
11. The design and appearance of the dwellings would be similar to many of the existing dwellings in the locality. In particular, the use of pitch roof forms, appropriate materials, inset dormer windows, chimneys and frontage walls. Further existing planting could mainly be retained as part of the development. I note that two areas of hardstanding would be provided at the front of the new dwellings. This would mark a change when compared to the existing soft

landscaped site. Nevertheless when compared to the nearby dwellings to the east and west these alone would not appear excessive. However the combination of these and the footprint of two dwellings would place built development on a large proportion of the site.

12. I note that the site could, in design terms, be a transition between No 1 and No 17 Rectory Lane. Further I accept that it would fill an existing gap between No 1 and No 17. In this regard it would be well related to the existing frontage. Further I note that the depth of the site would be less than those adjacent to the west. Nevertheless by filling an existing gap and continuing the line of dwellings the proposal would consolidate built form on the south side of the road. This would fundamentally alter the character of this part of Rectory Lane. Therefore the development would not preserve or enhance the character or appearance of this part of the CA which is the test it has to meet.
13. The proposal would lead to less than substantial harm to the significance of the CA. I note that the dwellings would contribute to the local housing stock. However, with paragraph 134 of the Framework in mind, I am not persuaded that this consideration equates to the public benefits necessary to outweigh the harm that I have identified, or that the proposal is necessary to secure optimum viable use of the site.
14. I note that the site is adjacent to the built edge of the village and is not geographically isolated from other housing. Milton Malsor is a small village and I note that it is closer to Northampton than the villages in the appeal decision referred to by the Council and that it has some facilities. The IRHPP provides an assessment of the scale of services available in a rural area. It identifies a primary school, village hall, public house, shop, church and local employment. There is also a range of mobile and delivery services. The village scored 54 out of a possible 110. Outside the appeal site there is some street lighting and there is a footway. The site is within reasonably close proximity of the village centre and its facilities.
15. The appellant suggests that there is a disparity between the NP and the IRHPP regarding whether the village is sustainable and the NP provision for 30 dwellings. The proposal before me is for two dwellings and the provision of two dwellings would not significantly contribute to the vitality of the existing village services. Therefore, whilst I accept that there are some services in the village that could be accessed on foot and connection to public transport it is likely that to undertake day to day activities and meet day to day needs, such as shopping and employment, the occupants of the new dwellings would rely on the private car. This would perpetuate an unsustainable pattern of development which the Framework seeks to avoid.
16. I accept that the provision of two dwellings weighs in favour of the scheme given the Council's position regarding housing land supply. However, the proposal would be in conflict with the LP settlement policies. It would lead to significant and demonstrable harm to the character and appearance of the area, wider sustainability objectives and would not preserve or enhance the CA within which it is located when assessed against LP policies H6, EV1, G3, EV9, EV10, Supplementary Planning Guidance Conservation Areas and Planning Guidance Note Residential Design in the Countryside in so far as it refers to the relationships between buildings and spaces and the policies of the Framework.

Consequently the benefits of the proposal do not outweigh the conflict with the policies of the LP.

Ecology

17. The application was accompanied by a Phase 1 ecological appraisal. The Council is concerned that the site could support protected species. It goes on to suggest that the survey provided with the application was inadequate. The appellant has provided two further surveys for reptiles and great crested newts.
18. The additional survey information identifies that there are no reptiles or other species on the site. It also notes that the stream is now flowing. As such it is not likely to be a habitat for great crested newts. Based on this information there is not a reasonable likelihood of protected species being present on or near the site. The report recommends a number of enhancement and mitigation measures. In combination with the legal obligations that exist should the situation change it is unlikely that there would be harm to protected species.
19. Therefore I am satisfied that protected species would not be harmed. I therefore, conclude that the proposal would not have an adverse effect on ecology and that it would not conflict with the Council's Supplementary Planning Guidance Nature Conservation and paragraph 118 of the Framework which highlights that when determining planning applications the aim should be to conserve and enhance biodiversity and ensure that adequate site investigation information, presented by a competent person, is presented.

Other matters

20. A number of appeal decisions have been brought to my attention. Further the appellant has drawn my attention to a new dwelling to the west, adjacent to the CA. Whilst I note that this dwelling has a modern design approach and utilises contrasting materials this does not alter or outweigh my conclusions on the main issues. I have in any event reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Conclusion

21. Whilst I have concluded that the proposal would not have a harmful effect on ecology it would lead to significant or demonstrable harm to the character and appearance of the area and would not preserve or enhance the CA within which it is located. Having had regard to all other matters raised I therefore conclude that the appeal should be dismissed.

D J Board

INSPECTOR