
Appeal Decision

Site visit made on 13 February 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2020

Appeal Ref: APP/R3705/W/19/3241218

Field rear of Fox & Dogs Public House, Orton Road, Warton, Warwickshire B79 0HT

- 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 Martin Newbold against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2019/0306, dated 24 May 2019, was refused by notice dated 8 October 2019.
 - The development proposed is residential development for up to 25 no. dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline. Matters relating to access form part of the application. Layout, scale, appearance and landscaping are reserved for future approval.
3. The Council is in the process of reviewing the North Warwickshire Local Plan Core Strategy 2014 (CS) through preparation of the new North Warwickshire Local Plan (Local Plan) which includes site allocations. The Local Plan was submitted to the Secretary of State in March 2018 but the examination is currently paused awaiting the outcome of a Housing Infrastructure Fund bid.

Main Issue

4. The main issue in this case is whether the proposed development would provide a suitable site for housing, having regard to the distribution of development within the Borough and the character and appearance of the area.

Reasons

Distribution of development

5. The appeal site occupies part of a field on the edge of the village of Warton. The site is located to the rear of existing housing and the Fox & Dogs pub site, which is currently vacant and has planning permission for 9 houses¹.
6. The CS sets out a spatial strategy for North Warwickshire which aims to achieve vibrant communities within a sustainable pattern of development. CS

¹ Application Ref PAP/2018/0536

Policy NW2 sets out the settlement hierarchy for the borough. The majority of new development is directed to the five largest settlements, then lesser amounts to the Green Belt Market Town and Local Service Centres. Warton is listed as an 'other settlement with a development boundary' in category 4, which is the smallest category listed. Policy NW2 states that in such settlements, development will be limited to that identified within the CS or a neighbourhood plan.

7. The appeal site is not specifically identified in any such plan and is located outside, but adjacent to, the development boundary for Warton, as defined through the CS. The site therefore falls within category 5 of Policy NW2, where development is limited to that necessary for agriculture; forestry; other uses requiring a rural location; or small scale affordable housing to meet a proven local need. The proposed development is not solely or predominately for affordable housing and is not small in scale, so it does not comply with the provisions of Policy NW2.
8. However, in relation to a proposal for employment development at Daw Mill Colliery², the Inspector and Secretary of State considered that the development boundaries identified through Policy NW2 are out-of-date because they do not reflect the need for additional housing and employment from neighbouring areas. This position was accepted by the Council at a subsequent appeal for residential development at land east of St Lawrence Road, Ansley³, which is also a category 4 settlement.
9. Limited weight can therefore be given to the settlement boundaries, but Policy NW2 also sets out the settlement hierarchy for the borough, and this approach is not inconsistent with the National Planning Policy Framework (the Framework). The Council has confirmed that the approach to the settlement hierarchy, and the identification of Warton within category 4 reflecting its limited range of services and facilities, is a longstanding approach which is being continued in the emerging local plan. According to the Council, during the ongoing local plan examination there have been no objections to the principle of the settlement hierarchy or to Warton's status within it.
10. Therefore, although the development boundaries in Policy NW2 are out-of-date, this does not apply to the policy as a whole. The settlement hierarchy and Warton's place within it are not out-of-date.
11. In recent years there have been a significant number of planning permissions in Warton. The figure of 45 additional dwellings for Warton, required by CS Policy NW5, has been significantly exceeded. According to the Council, recent planning permissions in Warton amount to close to 300 additional units. Whilst I acknowledge the need for the development boundaries to be updated to accommodate additional need, further development of a scale such as that currently proposed, which is not part of a planned strategy for the village, could result in growth which goes beyond the capacity of local services and facilities, and causes harm to the development strategy for the borough.

Character and appearance

12. The North Warwickshire Landscape Character Assessment and Capacity Study describes the No Man's Heath to Warton - Lowlands area as being a mixed

² Appeal Ref APP/R3705/W/16/3149827

³ Appeal Ref APP/R3705/W/17/3189584

open agricultural landscape, with a scattering of small, red-brick nucleated hill top villages, of which Warton is an example. The Character Assessment identifies the need to conserve and strengthen the rural character and dispersed settlement pattern and recommends that new development should reinforce the existing settlement pattern of the existing villages.

13. Warton is fairly linear in form, with the majority of built development located along and to either side of Austrey Road. Although there is a strip of development to the south side of Orton Road, including the former Fox & Dogs pub and a small cul-de-sac of new houses known as The Briars, the village is located mainly to the north.
14. The recent development at The Briars and the approved scheme at The Fox & Dogs would result in additional built development on the southern side of the village. However, the appeal site is surrounded on three sides by agricultural land and has no road frontage. It would extend well beyond the existing built up form of the village and the long gardens of adjacent houses, and would be poorly related to surrounding built development. The proposal would not reflect the pattern of development in the village, which is largely to the north of Orton Road, and would cause harm to the rural character of the area.
15. For the above reasons, I conclude that the proposal would not provide a suitable site for housing, as it would represent a harmful distribution of development within the Borough and it would harm the character and appearance of the area. Consequently, it would conflict with CS Policy NW2, which establishes a settlement hierarchy for the area and identifies Warton as a category 4 settlement, and CS Policy NW12, which requires a high quality of sustainable design that positively improves the individual settlement's character, appearance and environmental quality.
16. Conflict would also exist with section 12 of the Framework which is concerned with achieving well-designed places and, in paragraph 127c), seeks to ensure that developments are sympathetic to local character and the surrounding landscape setting.

Other Matters

17. As part of the appeal the appellant has submitted a unilateral undertaking (UU) which the Council has provided comments on. The UU provides for affordable housing; open space; biodiversity mitigation; and financial contributions for NHS services; highways; footpaths and education.
18. The proposed development would contribute to the borough's housing requirement and would provide affordable housing, which is a benefit of the scheme. I note that the site is available and deliverable, that it can be served by an approved access and there are no objections on highways grounds or flood risk. I have also taken account of the provisions of the UU. However, these factors are not sufficient to outweigh the harm I have found.
19. The appellant contends that, until the emerging Local Plan is found sound, the Council cannot currently demonstrate a five-year supply of deliverable housing sites. No further evidence is provided to support this case, which is disputed by the Council who say that they do have a five year land supply and also meet the requirements of the Housing Delivery Test (HDT).

20. Given my conclusions in relation to CS Policy NW2, the most important policies for determining the application are not out of date and the latest (2019) HDT results show that the test is met in North Warwickshire borough. The provisions of Framework paragraph 11d) therefore do not apply in this case and the 'tilted balance' is not engaged.
21. The appellant suggests that there are very close parallels between this proposal and the Ansley appeal decision. However, that case predates the current version of the Framework, and the application of the 'tilted balance' was made in light of a different policy context. Furthermore, in that case, unlike the current proposal, the Inspector found that the scheme would integrate positively, both visually and physically, into the character and appearance of the village and Ansley, whilst also being a Category 4 settlement, is a different settlement to Warton. The Ansley case is therefore different to this case and I give it limited weight in the consideration of this appeal.

Conclusion

22. For the reasons given, I conclude that the appeal is dismissed.

R Morgan

INSPECTOR