

Appeal Decision

Site visit made on 19 September 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 13th October 2016

Appeal Ref: APP/J3720/W/16/3152535

Stables site, Tommy's Turn Lane, Upper Brailes, Banbury OX15 5BB

- 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 Mr Edward Warmington against the decision of Stratford on Avon District Council.
 - The application Ref 15/03999/FUL, dated 5 November 2015, was refused by notice dated 28 January 2016.
 - The development proposed is demolition of existing stables and erection of one new dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Edward Warmington against Stratford on Avon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Stratford-on-Avon District Core Strategy 2011-2031 (CS) was adopted on the 11 July 2016 which was after the Council issued its decision to refuse planning permission and the submission of this appeal. All parties have had the opportunity to comment on the change in status of this document in terms of the relevance to their case. The Council have indicated that following the adoption of the CS the policies of the Stratford-on-Avon Local Plan Review (2006) that were identified within the reasons for refusal are now considered to carry no weight for decision making purposes. I determine the appeal on that basis and with regard to the current status of the development plan.

Main Issues

4. The main issues of this appeal are:
 - whether the proposal is consistent with the objectives of local and national planning policies relating to the location and supply of housing and which seek to protect the countryside, and;
 - the effect on the character and appearance of the site, the local landscape and the Cotswold Area of Outstanding Natural Beauty.
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Reasons

Location and supply of housing and protection of the countryside

5. Policy CS.15 of the CS relates to the distribution of development in Stratford-on-Avon District during the plan period 2011 - 2031 based on a pattern of balanced dispersal, in accordance with the distinctive character and function of the wide range of sustainable locations across the District. In this respect, Brailes is identified in the supporting text of Policy CS.15 as a Category 2 – Local Service Village (LSV).
6. Policy CS.15 advises that the scale of housing development appropriate to each village is specified in Policy CS.16 and that development will take place on sites identified in a Neighbourhood Plan; and through small-scale schemes on unidentified but suitable sites within their Built-Up Area Boundaries (where defined) or otherwise within their physical confines. The latter criterion is also stated in Policy AS.10 of the CS. For the purpose of Policy CS.15, the Brailes and Winderton Neighbourhood Development Plan 2011 - 2031, which includes the area where the site is located, is still at an early stage of preparation and therefore little weight can be attached to it at the present time.
7. Policy CS.16 of the CS states that within Category 2 LSV's there should be approximately 700 homes in total during the plan period, of which no more than around 12% (84 homes) should be provided within an individual settlement. Evidence provided by the Council confirms that based upon data from between 1 April 2011 and 30 November 2015, a total of 41 dwellings have been built or committed in Brailes. The restriction in Policy CS.16 would not, therefore, be exceeded by the development in cumulative with dwellings built to date or committed in Brailes.
8. The appellant has made reference to the Council's housing land supply position and a recent appeal decision within the District for the construction of 75 dwellings at Marriage Hill Nurseries, Alcester¹ in June 2016 which identified that the Council had not robustly demonstrated that it has a supply of 5 years' housing on specific, deliverable sites. However, the CS has been adopted since the appeal decision with an identified deliverable 5-year housing land supply. National Planning Practice Guidance² states that housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the 5-year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. There is no evidence before me relating to the period since the adoption of the CS in July 2016 that would lead me to consider that the Council can no longer demonstrate a deliverable 5-year housing land supply. The relevant policies for the supply of housing are, therefore, up-to-date.
9. The appeal site consists of the corner of a large field accessed from Tommy's Turn Lane located on the outskirts of Brailes. There is an existing single storey timber stable building and an area of hardstanding within the site. An existing public footpath runs to the north of the site from Henbrook Lane to the north west through open countryside to Sutton Lane to the east.

¹ APP/J3720/W/15/3010653

² Housing and economic land availability assessment, Paragraph: 030 Reference ID: 3-030-20140306, Revision date: 06 03 2014

10. The intermittent linear development along Henbrook Lane extends from the bend in the road where it meets Tommy's Turn Lane towards High Street (B4035) where the majority of services and facilities in Brailes are located. However, the intermittent linear development along Henbrook Lane and on the bend of Tommy's Turn Lane is predominantly located to its western side, with only a small group of dwellings on the eastern side of Henbrook Lane. Views of these dwellings are largely screened from localised views looking east by an established tree line along the western boundary of the site that continues to the north.
11. The bend in the road where Henbrook Lane meets Tommy's Turn Lane to the north west of the site serves as a clear boundary to the existing residential development grouped to the east of Henbrook Lane and to west and south of Tommy's Turn Lane. This is reinforced by the open land that lies between the existing dwellings and the site, together with the tree line extending along the boundary and adjoining land. These features provide visual and physical separation between the existing dwellings and the distinctly rural character of the site which adjoins open land to the east and surrounding Tommy's Turn Lane further to the south that gently slopes downward towards the junction with Sutton Lane. Consequently, the site relates visually to the open countryside rather than an evident part of the physical confines of Brailes.
12. With regard to the above, the development of a dwelling within the site would result in a harmful encroachment upon open countryside alongside Tommy's Turn Lane. The detrimental impact would not be offset by the presence of existing stables that have a more limited footprint and are an appropriate form of development in the countryside listed under Policy AS.10 of the CS. The proposal would not fall within the forms of residential development in the countryside that are acceptable in principle as listed under Policy AS.10. In this respect, the matter of whether the proposal consists of an exceptional quality and design and makes a positive contribution to the character of the local area is dealt with separately in the subsequent main issue.
13. Paragraph 55 of the Framework states that local planning authorities should avoid new isolated homes in the countryside unless special circumstances exist. The approach is supported by Policies CS.1 and CS.2 of the CS which, amongst other things, seek to maintain sustainable communities, direct development to sustainable locations and locate development in a manner which minimises the need to travel and encourages other forms of sustainable travel such as cycling, walking and the use of public transport.
14. Brailes has a range of local services and facilities consistent with its status as a Category 2 – LSV as identified in Policy CS.15 of the CS, including a primary school, newsagents, butchers, deli, village shop, public house / restaurant, village hall, recreation ground, post box and an employment area. There is an hourly bus service to and from Banbury, where an increased range of services and facilities are located, from the early morning until the early evening on weekdays, less frequent services on Saturdays and no bus service on Sundays from the nearest bus stops on High Street / Sutton Lane. The site lies outside of the village envelope, but is not significantly distant from the nearest bus stops and services and facilities in Brailes which are approximately 500m from the site, with the majority being within 1000m.

15. Notwithstanding the above, the routes which pedestrians would need to take to access the local services, facilities and bus stops are not of a good standard. The sections of Tommy's Turn Lane and Henbrook Lane leading to High Street are narrow, without a footway and unlit, including bends which afford limited forward visibility of vehicles approaching from the other direction. The narrow width and absence of grass verges along significant sections of these roads means that there are parts of the route with no refuge for pedestrians to get off of the carriageway if they needed to do so. As a consequence, the route via Henbrook Lane would give rise to adverse effects relating to pedestrian safety, despite the route being lightly trafficked.
16. An alternative route would offer safer access for pedestrians via a public footpath that runs along the northern boundary of the site to Sutton Lane, which then has footways leading to High Street. However, the public footpath is unlit and has varying ground conditions along its length which makes it unsuitable for wheelchair users or pedestrians with pushchairs.
17. Taking the above into account, I consider it highly unlikely that occupiers of the dwelling would regularly access the local services and facilities on foot or via bicycle, particularly at night or in inclement weather. Consequently, it is likely that the proposed development would encourage dependency on private car use and therefore, the site is not a sustainable location in transport terms.
18. The proposal would not, of itself, generate a large number of traffic movements, particularly when taking account of the presence of existing stables, and some dependency on car use is inevitable in rural locations. However, the cumulative effect of allowing development in locations which encourage dependency on private car use to access services and facilities to meet daily needs would be likely to increase the amount of unsustainable journeys made.
19. There are three dimensions to sustainable development in the Framework: economic, social and environmental. These roles are mutually dependant and should be jointly sought to achieve sustainable development. The proposal would offer potential benefits to the social dimension of sustainability in terms of increasing housing supply and choice on previously developed land. The development of the site for residential purposes would also have potential economic benefits to the local area, including the contribution of additional residents to the rural economy and sustaining services in Brailles and neighbouring settlements. There would also be temporary economic benefits relating to the construction works associated with the development. However, the extent of these benefits is limited for a development comprising a single dwelling. Consequently, these factors do not outweigh the shortcomings of the development with respect to the site being an unsustainable location in transport terms.
20. In reaching the above findings, I have taken into account the transport statement, dated May 2016, which draws comparison with the proximity to local services of dwellings previously approved by the Council between Brook House and The Rosses, Henbrook Lane and Bio-Life International site, at the junction of Tommy's Turn Lane and Sutton Lane. However, based on the evidence before me, these proposals were different with respect to their site specific circumstances and development plan context. In any case, the presence of existing development in what I consider to be unsustainable

locations in transport terms does not justify additional harm arising from the proposal before me.

21. Having taken all of the above into account, I conclude that the development would not be consistent with the objectives of local and national planning policies relating to the location and supply of housing and which seek to protect the countryside. The proposal would, therefore, conflict with Policies CS.1, CS.2, CS.15 and AS.10 which seek to direct residential development of small housing schemes to within the Built-Up Area Boundary of a Local Service Village (where defined), or otherwise within their physical confines and towards the most sustainable locations. The policies are consistent with the Framework.

Character and appearance

22. Policy CS.15 of the CS also states that all development at existing settlements is expected to protect and enhance the character of the settlement involved and its setting, with assessment relative to six principles. The principles relate to the scale of development and its immediate surroundings, the character of the settlement, design and integration with existing form of the settlement, the surrounding landscape and setting, settlement gaps and infrastructure. These principles are supplemented by Policy CS.5 with respect to landscape and visual impact, and Policy CS.9 with respect to design and distinctiveness.
23. Brailes is characterised by its rural setting and has a range of architectural styles, including a mix of rural buildings and suburban dwellings of differing types, density, scale and materials. Consequently, there is a significant variation in the appearance, pattern and form of existing development within the main village and the linear development beyond.
24. The site lies within the Cotswold Area of Outstanding Natural Beauty (AONB). Section 85 of the Countryside and Rights of Way Act 2000 requires decisions on development proposals in the AONB to have regard to the purpose of conserving and enhancing the area's natural beauty. The Landscape Assessment which informed the Cotswold AONB Management Plan identified Upper Brailes as within Landscape Character type 1G, Escarpment Outlier and Lower Brailes within Landscape type 19E, Vale of Feldon Fringe.
25. Policy CS.11 of the CS states that development proposals in the District involving land either within, or outside but affecting, the Cotswold AONB should conserve and enhance the special landscape qualities and scenic beauty of the AONB and be consistent with the objective set out in the Cotswolds AONB Management Plan. Policy CS.11 also states that small-scale development and activities are appropriate, in accordance with Policy AS.10 of the CS, but must not harm the historic or built character, local distinctiveness or landscape quality of the AONB. As previously identified, the proposal does not fall within one of the types of residential development listed as acceptable in principle under Policy AS.10, unless it is of exceptional quality and design and makes a positive contribution to the character of the local area. The Framework advises that great weight should be given to conserving landscape and scenic beauty in AONBs.
26. The appellant has provided a landscape statement, dated March 2016 which identifies the site as sitting within the north-eastern corner of the Cotswolds AONB. With reference to a Landscape Character Assessment, the site sits in

Area 19 'Unwooded Vale'. This is characterised as a soft, rolling and settled agrarian landscape with a rural and domestic character. Beyond villages, the settlement pattern becomes dispersed with numerous farmsteads and hamlets, commonly with a linear form scattered across the landscape, with farmhouses and individual buildings gaining visual prominence when they are sited on the top of undulations.

27. The landscape statement acknowledges that a Landscape Sensitivity Assessment (LSA) carried out in 2011 for the Council in assessing 'sensitivity to residential development' found the area was not suitable. However, the relevance of the LSA conclusion with respect to a single dwelling is questioned. The LSA also preceded a nearby planning permission for 18 dwellings to the east and development at the junction of Sutton Lane and Tommy's Turn Lane. The landscape statement, therefore, concludes that whilst the development will be clearly visible in the immediate local landscape in terms of likely visual impact, the scheme would be neutral in significance in that 'The proposals would more or less fit in with the scale, landform and pattern of the landscape, maintaining the balance in the existing view'.
28. The landscape statement is a material consideration to which I attribute significant weight. However, the construction of a one and a half storey dwelling and linked garage on the site with an increased footprint compared to the existing stables would result in built development where there is presently none. The design of the dwelling, including its architectural style, scale, form, massing and use of materials would respect the diverse style of buildings evident in the local area, albeit not of an exceptional quality or design as required by Policy AS.10 of the CS. Nevertheless, the increased footprint of buildings within the site and the resultant bulk, scale and massing, together with an associated residential curtilage and domestic paraphernalia would inevitably lead to a loss of its open character. In this respect, the dwelling would have a significant impact upon the existing rural character of the site when compared to the existing paddock, hardstanding and more modest scale, footprint and reduced prominence of the stable block positioned closer to the tree line.
29. The loss of openness and detrimental impact on the rural character of the site and its surroundings would be observed from and substantially alter existing views along the public footpath running to the north of site. Users of the public footpath are sensitive receptors to such immediate changes to a rural landscape when looking south. Views approaching Brailes from the south along Tommy's Turn Lane and Sutton Lane between gaps in hedgerow would also be adversely affected given the raised land levels of the site.
30. The open land that lies between the site and the existing dwellings to the north, west and east, together with the tree line which extends along the western boundary and adjoining land to the north, provides both physical and visual separation from the existing patterns of residential development. From the immediate public vantage points, the dwelling would appear visually and physically detached from the groups of dwellings along Sutton Lane and further to the north and west on Henbrook Lane and Tommy's Turn Lane. Consequently, the development would appear prominent and out of place relative to the rural character of the site and its surroundings which makes a positive contribution to the setting of Brailes as part of an open gap. In such circumstances, the addition of a dwelling would result in significant harm to the

character and appearance of the site and its surroundings, including a localised impact on the landscape, scenic beauty and special qualities of the AONB. This localised impact of the development would be significant and could not be mitigated by additional landscaping.

31. In reaching the above findings, I have taken into account that planning permission has been granted for development of 18 dwellings to the east of the site. However, the precedent of such a development being considered acceptable does not justify the harm identified. In fact, the potential for an adjoining development to the east would worsen the harm identified through the cumulative effect of an increased coalescence of built form within the rural landscape between Tommy's Turn Lane and Sutton Lane. The presence of built form at the junction of Tommy's Turn Lane and Sutton Lane is more distant from the site and therefore does not replicate or justify the harm identified.
32. Based on my observations of the site and its surroundings from distance views of the landscape from public vantage points on Holloway Hill, Holloway Lane and High Street, the development would not have a significant impact on the wider landscape of the AONB. From these perspectives, the dwelling would be viewed in an undulating landscape against a number of other existing dwellings, tree lines and taller hillsides and therefore would not be an overly prominent or incongruous feature. However, the absence of concern in this respect does not justify the harm otherwise identified.
33. Having taken all of the above into account, I conclude that development would result in unacceptable harm to the character and appearance of the site and the surrounding area, including a localised impact on the landscape, scenic beauty and special qualities of the AONB. The proposal, therefore, would conflict with Policies CS.5, CS.9, CS.11, CS.15 and AS.10 of the CS. When taken together these policies seek to ensure that development is of a high quality design which maintains landscape character and quality, including the local distinctiveness and landscape quality of the AONB. These policies are consistent with the Framework which attaches great weight to conserving landscape and scenic beauty in AONBs, great importance to the design of the built environment and seeks to promote or reinforce local distinctiveness.

Other Matters

34. The appellant has drawn my attention to a number of other examples of development previously granted planning permission by the Council within the District in addition to those previously mentioned, including a single dwelling at Orchard Cottage and a replacement dwelling at Upper Grove End Farm, both of which are to the west of Tommy's Turn Lane. However, the site specific circumstances are not the same, including with respect to individual locations and relevant development plan policies at the time of each decision. I therefore determine this appeal on its own merits.
35. The dwelling would utilise an existing access which serves the land and stables. Based on the evidence before me, there have not been any previous accidents associated to the use of the existing access or in the immediate vicinity of the appeal site in the past 5 years. In this respect, the existing vehicular access would be a safe and acceptable highway solution for the traffic which would arise from the development, given the fallback position of its use to access the existing stables.

36. The Council raised no concerns with respect to the living conditions of occupiers of neighbouring properties. Based on observations during my site visit, I have no reason to take a different view given the separation distance to surrounding dwellings.
37. I am satisfied that Council concerns relating to foul drainage could be overcome by imposition of a condition for the submission, agreement and implementation of drainage scheme, if the appeal were allowed.
38. There is no evidence that the development would have a detrimental effect upon the ecology of the site having regard to Policy CS.6 of the CS.

Planning Balance

39. The proposal would conflict with the approach to the location and supply of housing in Policies CS.1, CS.2, CS.15 and AS.10 of the CS and the approach to character and appearance, including landscape character, design and local distinctiveness, and the special qualities of the AONB, as set out in Policies CS.5, CS.9, CS.11, CS.15 and AS.10 of the CS. The proposal would not, therefore, be in accordance with the development plan. In such circumstances, planning law and the Framework³ indicate that planning permission should not be granted unless material considerations indicate otherwise.
40. I have identified economic and social benefits arising from the provision of a single dwelling to which I attach limited weight based on the scale of development proposed. I have also identified an absence of harm in a number of respects which are neutral factors that do not weigh in favour of the development.
41. The Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the appeal proposal would be contrary to the development plan policies I have referred to, and the resultant harm would not be outweighed by other material considerations and also would not outweigh the great weight to be given to conserving landscape and scenic beauty of the Cotswold AONB.

Conclusion

42. For the reasons set out above and having taken all other matters into account, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR

³ Paragraph 11