

Appeal Decision

Site visit made on 30 January 2017

by S D Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 17th February 2017

Appeal Ref: APP/H0520/W/16/3161841

Abbots House, Priory Gardens, Chesterton PE7 3UB

- 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 A Upton against the decision of Huntingdonshire District Council.
 - The application Ref 16/01219/OUT, dated 8 June 2016, was refused by notice dated 5 August 2016.
 - The development proposed is erection of a single dwelling with garaging and means of access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in outline. Illustrative plans showing one way in which the site could be developed have been submitted. All matters are reserved for consideration at a later stage other than access.
3. The Council has confirmed that, as the appeal site falls outside the protected frontages in Chesterton, Policy En16 of the Huntingdonshire Local Plan Part One December 1995 does not apply. I have therefore disregarded references to this Policy on the decision notice in considering the appeal before me.

Background and Main Issue

4. The planning application was refused for three reasons. The Council in the Statement of Case for the appeal has withdrawn that part of reason number one relating to the access arrangements; reason number two relating to the effect on trees and reason number three relating to the provision of wheeled bins. Taking this into account I consider that the main issue for this appeal is whether the site is an appropriate location for a dwelling taking particular account of the character and appearance of the area.

Reasons

5. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise¹. The development plan comprises the Saved Policies of the Huntingdonshire Local Plan 1995 and the Local Plan alteration 2002 (which for ease I will refer jointly to as the LP) and the Huntingdonshire Core Strategy 2009 (CS). In accordance with Paragraph 215 of the National Planning Policy Framework (the Framework)

¹ Section 38 of the Planning and Compulsory Purchase Act 2004

appropriate weight can also be given to the emerging Draft Huntingdonshire Local Plan to 2036: Stage 3 (the emerging LP) according to the degree of consistency with the Framework.

6. Chesterton is identified in the development plan as a Smaller Settlement. There are some services in the village and a full range of facilities is available in nearby Oundle and Peterborough. There is some evidence of bus services. Although most occupiers of the proposed dwelling would rely on the private car the development plan provides for minor scale growth located within the built up area of Smaller Settlements². This is reflected in the emerging LP³.
7. The appeal site, with the exception of part of the access, lies outside the Chesterton defined village environmental limit shown on the LP Proposals Map. Policies H23 and En17 of the LP contain a presumption against new housing outside environmental limits except in specified and justifiable circumstances. Policies CS1 and CS3 of the CS and LP1, LP10 and LP11 of the emerging LP, amongst other things, also seek to direct development to built-up areas of settlements. No case has been made that the proposal would satisfy a particular essential need. The development plan policies are of some age but for the purposes of this appeal are broadly consistent with the Framework in respect of seeking to protect the countryside from development except in certain specified circumstances.
8. Paragraph 14 of the Framework says that where the development plan is absent, silent or relevant policies are out of date planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appellant acknowledges that age alone does not mean that the development plan policies are out of date but asserts that Policies H23 and En17 are policies which control the supply of housing; are out of date in setting limits to development in relation to former housing targets; and that other Councils have taken the view that where new environmental limits have yet to be put in place Paragraph 215 of the Framework has been applied.
9. Paragraph 5.15 of the CS which supports Policies CS1, CS2 and CS3 and Policy LP11 of the emerging LP set out a criteria based approach to assessing whether a site lies within the built-up area of a settlement. This is more consistent with the principles of the Framework than the map based approach of the LP. The evidence before me indicates that the Council can demonstrate in excess of an up to date five year deliverable supply of housing land, which the Council says is based on a cautious approach and incorporates a 5% buffer. On this basis I consider that although the development plan precedes the Framework and the emerging plan does not attract full weight the relevant development plan policies are not absent, silent or out of date for the purposes of Paragraph 14 of the Framework. The presumption in favour of sustainable development in Paragraph 49 is therefore not engaged.
10. The criteria based approach in the CS and the emerging LP excludes gardens, paddocks and other undeveloped land in the curtilage of a building on the edge of a settlement where the land relates more to the surrounding countryside

² Policies H23 and En17 of the LP; Policies CS1 and CS3 of the CS

³ Policies LP10, LP11 and LP26 of the emerging LP

than to the built up area of the settlement. Abbots House is on the edge of the settlement. In the vicinity of the appeal site the environmental limit of Chesterton, as shown on the Inset Plan, is reflected on the ground by the hedge along the northern boundary of St Michael's Church, The Stables, The Chestnuts and Abbots House and by the trees on the banks of a stream which runs along the western boundary of a number of houses on Oundle Road. The appeal site is an irregular shaped piece of land beyond the stream and separated from the immediate rear garden of Abbots House by a screen of trees. There is a relatively sparse hedge/treeline separating the appeal site from a field to the west and a paddock/woodland to the north.

11. The Council describes the planning history of the site as comprising a planning permission Ref 9701468FUL for the change of use of land from paddock to garden subject to a condition restricting the erection of domestic structures, garden sheds or walls without express planning permission. Within the appeal site there is a gravelled turning area, grassed areas, a pond and a number of structures including timber buildings and fencing around a tennis court. Some of the timber buildings are similar in style to stable buildings. Although the Council says that planning permission has not been granted for the structures the evidence before me points to them having been on the site for some years.
12. In my experience countryside is not exclusively open fields and includes gardens, woodlands, ancillary buildings and hard standings. Although the appeal site exhibits some aspects of uses and structures ancillary to residential use it is not closely associated with Abbots House. Irrespective of views from the distant bridleway I find that the appeal site has less in common with the characteristics of the well landscaped enclave of housing and trees inside the environmental limit and I conclude it relates more to the surrounding countryside than to the built up area of the settlement. Accordingly in the absence of special justification of need I conclude that the proposed dwelling would be contrary to Policies H23, En17; CS1 and CS3 of the development plan, Policies LP1, LP11 and LP26 of the emerging LP and those principles of the Framework that seek to protect the intrinsic character and beauty of the countryside.
13. The proposed development would result in a dwelling protruding beyond the existing village and which would rely on trees and screening to prevent visual intrusion. I see no reason to doubt that a suitable dwelling design that would sit within woodland similar to other properties in the village, and that would accord with the design principles of Policy En25 of the LP and LP13 of the emerging LP, could be secured at reserved matters stage. However, on the balance of probabilities I consider that it would be likely over time that there would be pressure for more ancillary residential structures both within the appeal site and that part of the land retained by the host property which also falls outside the environmental limits which would cumulatively intensify built development and detract from the appearance of the countryside. Moreover, whether or not the village nestles in woodland does not mean all nearby woodland is, or should become, part of the built-up area.

Other Matters

14. Even though Abbots House is not shown on the base map used to delineate the Chesterton environmental limit, the house and its immediate garden are within the identified environmental limit.

15. The proposed development would rely on an existing long, relatively narrow access which exits onto Oundle Road between other driveways. The appellant and others have existing vehicular rights over the access although I understand it has not been intensively used in the past. The Council raises no objections subject to certain restrictions which would be matters to be resolved at a later date and on the basis of the available evidence I see no reason to disagree.
16. My attention has been drawn to the possible existence of a public right of way along the access and an intention to commence a process under s53 of the Wildlife and Countryside Act to have this re-instated. Third parties have raised concerns including the effect of the proposed development on privacy, noise and disturbance, wildlife, storage of wheeled bins and drainage. Whilst I acknowledge these concerns I note that the Council has raised no objections on these grounds. The available evidence and my observations during my site visit do not lead me to any different conclusion.

Planning Balance and Conclusion

17. Planning policies can pull in different directions. I have found that the relevant policies of the development plan are not out of date and that the proposed development would conflict with the development plan and those principles of the Framework that seek to protect the intrinsic nature of the countryside. I give this great weight.
18. Balanced against this is the small but positive contribution that would be made to the housing stock of the District whether or not the Council can identify a five year deliverable supply of housing land. There would be a small economic benefit arising from employment during construction and future occupiers could make a small contribution to the local economy and support the rural community. These matters carry limited weight in favour of the proposal.
19. Taking all these matters into account, on balance, I conclude that the benefits of the proposal would not outweigh the harm to the countryside and do not justify making a decision other than in accordance with the development plan. The appeal should not succeed.

SDHarley

INSPECTOR