
Appeal Decision

Site visit made on 21 February 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 06 April 2017

Appeal Ref: APP/W1850/W/16/3162405

Stone House, Bromyard Road, Ridgeway Cross, Cradley, nr. Malvern, Herefordshire WR13 5JN

- 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 R Cross against the decision of Herefordshire Council.
 - The application Ref 162111, dated 18 June 2016, was refused by notice dated 26 August 2016.
 - The development proposed is detached dwelling and vehicle access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would be in a suitable location, given that the appeal site lies outside any settlement boundary.

Reasons

3. The appeal site comprises a grassed area occupied by a number of large poly-tunnels and an existing dwelling known as Stone House, where the appellant resides with his wife. A one-and-a-half storey detached dwelling is proposed on the north-western part of the site whilst the existing two-storey Stone House would remain. Much of the site is screened from the road by a high hedge and there is a gated access at the northern end in addition to the access to Stone House itself. It is located on the western side of the B4220 Bromyard Road. However, the appeal site is about 1km outside Cradley and, therefore, considered to be located in the open countryside.
4. Policy SS1 of the Herefordshire Local Plan Core Strategy 2011-2031 (CS)¹, the development plan, reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework² (the Framework). As part of a spatial strategy, Policy SS2 focusses housing development on Hereford and the market towns with the remainder to be provided in rural settlements. The village of Cradley is, according to the Council, identified in the CS as a settlement which will be a focus of proportionate housing development.

¹ Adopted October 2015

² Published 2012

5. CS Policy RA3, which deals with Herefordshire's countryside, says that in rural locations outside settlements residential development will be limited to proposals which satisfy specified exceptions. It seeks to avoid unsustainable patterns of development in the countryside and the creation of new isolated homes, in accord with national policy, such as paragraph 55 of the Framework.
6. The exceptions in Policy RA3 include, at 1 and 2, where there is a need for a rural worker to live permanently at or near their place of work in connection with an agricultural, forestry or other farm diversification enterprise or a dwelling is required to enable a rural enterprise to be established or grow. In such cases, Policy RA4 must also be complied with. Amongst other things, that policy requires that proposals for such dwellings should demonstrate that the accommodation could not be provided in an existing building.
7. I understand that the appellant and his wife currently sell fruit, vegetables and flowers, grown on the appeal site, and run a beekeeping business producing and selling honey. The appellant's intention is to focus solely on the production of honey in the future and it is suggested that the proposal would facilitate that aim.
8. However, there is already a two-storey dwelling on the site and no essential functional need has been established for an additional dwelling in direct connection with the requirements of the business. In short, whilst I note the appellant's personal circumstances, the existing business activities, including the beekeeping element, could continue to be run from the existing dwelling. Therefore, the most relevant exception criteria in Policy RA3, criteria 1-2, and Policy RA4, criteria 1-3, would not be met. Whilst there is no particular issue with the design of the dwelling, it is not submitted by the appellant that the proposal is of 'exceptional quality or innovative design'. In any event, none of the exceptions in Policy RA3 are met and consequently the proposal conflicts with Policies RA3 and RA4 of the CS.
9. The Council accepts that it cannot currently demonstrate a five year housing land supply, though they have not provided a figure for the level of supply that they can show. In any case, it follows that, in accord with Paragraph 49 of the Framework, policies SS2, RA3 and RA4, which to varying degrees restrict housing land supply, should not be considered up-to-date. However, that does not mean that the development plan policies carry no weight at all. It is a matter of judgement for the decision maker to attribute the appropriate weight dependent on the facts of the case.
10. Nevertheless, in such circumstances, paragraph 14 of the Framework indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
11. Paragraph 55 of the Framework advises that to promote sustainable development, housing should be located where it will enhance or maintain the vitality of rural communities. It also says that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
12. It has already been established that the appeal site is about a kilometre from Cradley, the nearest settlement. The Council advises that though Cradley has a small butchers with some convenience goods for sale, the village no longer

has a shop or post office. Therefore, future occupiers would be likely to need to travel to Bromyard, about 8km away or to other settlements such as Ledbury or Great Malvern to access a wider range of facilities and services, such as supermarkets. That has not been disputed by the appellant.

13. Stone House is one of a handful of properties strung out along the southern section of Bromyard Road (B4220). The Council advise that it is a busy road with no pavement, which is in accord with what I saw on my site visit. No evidence has been presented regarding bus services or the proximity of bus stops. Given the distance to Cradley and other settlements, it seems likely that any future occupiers of the property would be heavily reliant on the private motor car. Though the Framework recognises in paragraph 29 that opportunities to maximise sustainable transport will vary from urban to rural areas, a dependence on the motor car is an indication of remoteness. I also note that the Parish Council and the Campaign for the Protection of Rural England objected to the application on the basis of its location in the open countryside and distance from settlements.
14. In view of the above, I consider that the appeal proposal would create a new isolated home in the countryside. As none of the special circumstances in paragraph 55 of the Framework, many of which are similar to those contained in Policy RA3 of the CS, are satisfied, the proposed development would be contrary to paragraph 55, which is an expression of national policy.
15. The appellant cites three planning permissions³ in the area where he says consent has been given for new dwellings in the countryside. I do not know the background to those applications or have full details, such as plans or Officers' reports. However, the Council advises that two of the consents at Coombe Farm and Hope End Farm, respectively, were approved on the basis that they were of 'innovative design and exceptional quality' and thereby met the relevant policy exception. It has not been submitted that the proposed development would meet that criterion and I do not consider that it would. Therefore, there does not appear to be a direct parallel between those consents and the appeal proposal.
16. The third permission at Cross Place, also referred to by Ledbury and District Civic Society, is about 1.5 miles from the appeal site. It is suggested that there are similarities with the appeal proposal. The Council advise that the application was approved by its planning committee but do not elaborate further. Again, I do not know the background and have not been supplied with full details or documentation relating to that scheme and do not have knowledge of the circumstances that led to it being approved by the Council. Therefore, though there may be similarities, I cannot be sure that it represents a direct parallel to the appeal proposal. In any case, I have determined the appeal before me on its own merits.
17. The Framework states that there are three dimensions to sustainable development: economic, social and environmental. In economic terms, there would be some uplift during construction and future occupiers would also contribute to the local economy. Socially, there would be a contribution to the housing supply, which is particularly relevant when the Council does not have a five year housing land supply. However, the economic and social benefits are limited by the fact that the proposal is for only one house.

³ 162041,150962 and 160530

18. Environmentally, the appellant argues that the removal of the poly-tunnels would improve the character and appearance of the area. However, they are already partially screened from the road. The new dwelling is also described as more eco-friendly. Yet development in an isolated rural location, defined as open countryside, with future occupiers reliant on the private motor car weighs against the proposal.
19. Policies SS1, SS2, RA3 and RA4 of the CS form an integral part of the Council's spatial strategy which aims to direct development to sustainable locations with reasonable access to services and employment opportunities. Paragraph 15 of the Framework indicates that the vehicle for delivering sustainable development is the development plan. As the CS has been fairly recently adopted and would have been examined to ensure its consistency with the Framework, I consider it reasonable to give significant weight to Policies SS1, SS2, RA3 and RA4.
20. As the proposal conflicts with those policies, for reasons already given, to approve it would undermine the Council's carefully considered spatial strategy. Overall, the above factors lead me to find that the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the limited benefits offered by the provision of one dwelling. Therefore, I conclude that the proposal would not be in a suitable location and would not constitute sustainable development.

Other Matters

21. The appellant advises that the proposal would enable him and his wife to stay at the location but move into the new smaller house more suitable to their needs. It would also allow one of their adult children to move into Stone House and be available, if necessary, to provide future care. Whilst I understand and am sympathetic to those wishes, it would not, in my view, be feasible to attach appropriate conditions to a planning permission which would secure those arrangements without being unreasonably restrictive. Moreover, the planning system is generally concerned with the wider public interest rather than personal circumstances; unless they can be shown to be truly exceptional and alternative options are unavailable. I do not consider that is the case.
22. I am also conscious of the level of support for the application amongst many members of the local community. However, planning law⁴ requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise, as confirmed in paragraphs 11 and 12 of the Framework. Therefore, it does not lead me to alter my decision on the facts of this appeal.
23. The appellant refers to pre-application advice received from the Council but that advice states that the Council could not give an indication of the likely recommendation until a planning application and supporting evidence had been considered. Such pre-application advice does not fetter the Council in making a decision.

⁴ s.38(6) Planning and Compulsory Purchase Act 2004 and s.70(2) Town and Country Planning Act 1990

Conclusion

24. Whilst the supply of housing policies breached are out-of-date, the proposal would nevertheless be contrary to the development plan as a whole and paragraph 55 of the Framework. That conflict would not be outweighed by other material considerations, including the provisions of the Framework and paragraph 14 in particular. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR