

Appeal Decision

Site visit made on 17 May 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 9th June 2017

Appeal Ref: APP/N2739/W/17/3169716

Land to the north east of Church Lane/Weedling Gate, Stutton LS24 9BS

- 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 Keith Tillett against the decision of Selby District Council.
 - The application Ref 2016/1476/OUT (8/70/208A/PA), dated 14 December 2016, was refused by notice dated 10 February 2017.
 - The development proposed is a detached dwelling.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Keith Tillett against Selby District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The proposal seeks outline planning permission with all matters reserved for future consideration. I have considered the appeal on this basis and treated the submitted drawing showing a proposed access as indicative only. I have also amended the description in the header above to remove superfluous wording not related to development. There is a minor typing error in the address given on the application form and I have used the correct spelling of Stutton above and in the remainder of my decision.

Main Issue

4. The main issue is whether the location would be consistent with local and national policies relating to housing in rural areas, with particular regard to access to everyday facilities by a range of means of transport.

Reasons

Background and Policy Context

5. The appeal site comprises part of an open field located at the corner of Weedling Gate and Church Lane. The site lies outside but adjacent to the defined settlement boundary of the village of Stutton. For the purposes of local and national policy, the site therefore lies within the countryside.
-

6. An identical proposal on this site was dismissed on appeal in November 2016¹. This was on the basis that it would conflict with the development plan's settlement hierarchy policies, would be in a location with poor access to services and facilities and would not, as a result, constitute sustainable development. Notwithstanding the change in context described below, this decision remains a significant material consideration.
7. Policy SP2 of the Selby District Core Strategy (2013)(CS) seeks to focus development into Selby followed by defined local service centres and designated service villages. These are considered to be the most sustainable locations for growth. 'Secondary Villages' such as Stutton are not identified for further planned growth as they are considered less sustainable than both local service centres and designated service villages. The policy only allows for housing outside defined development limits in a limited number of circumstances. The previous Inspector concluded that the development would not meet any of these and no evidence has been provided which would lead me to a different conclusion. As such, there would still be conflict with CS Policy SP2 which seeks to focus development into higher order settlements and control development in the countryside. By extension, there would also be conflict with Policy SP15(a) which seeks to direct development into more sustainable locations identified by Policy SP2.
8. However, since the previous appeal was determined, the Council has acknowledged that they do not have a five year supply of deliverable housing land as required by paragraph 47 of the National Planning Policy Framework (the Framework). Thus relevant policies for the supply of housing cannot be considered up-to-date². This triggers the fourth bullet point of paragraph 14 of the Framework which sets out the presumption in favour of sustainable development in these circumstances. It says that where the development plan is out-of-date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. This is also reflected in CS Policy SP1.
9. This does not alter the statutory function of the development plan and under planning law, decisions must still be taken in accordance with the development plan unless material considerations indicate otherwise³. However, in the context of this appeal, the policies of the Framework are important material considerations and I must consider whether or not the requirements of paragraph 14 and Policy SP1 would be met.

Access to facilities

10. There is nothing to suggest that Stutton would be capable of meeting the everyday needs of its occupants. It is therefore inevitable that travel outside the village would be necessary. The previous Inspector concluded that future occupants would be reliant on the car. In coming to this conclusion, he had regard to the relative proximity of Stutton to Tadcaster, the potential use of the segregated footpath that leads to the edge of Tadcaster and what level of public transport occupants would have access to. The context in which he

¹ Appeal reference: APP/N2739/W/16/3164518

² See paragraph 49 of the Framework.

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990

came to this conclusion has not changed. There appears to be the same level of service provision in the area and there is no suggestion that public transport services have improved in the intervening period.

11. I have noted the appellant's and Parish Council's comments in relation to the use of the footpath that leads to the edge of Tadcaster. I recognise that this path provides reasonably direct access to a small parade of shops. From my own observations I noted that it is roughly a 10-15 minute walk from the site and includes a post office, small convenience store, hair dresser, pub and hot food take away. The path is also suitable for cyclists.
12. Whilst I have no doubt that the path is reasonably well used, particularly for recreational purposes, I am not convinced that it represents a reasonable or realistic alternative to the car for future occupants to meet their everyday needs. For one reason, the parade does not provide sufficient services or facilities for day-to-day living. Little information has been provided in terms of access to larger retail facilities, banks, healthcare, leisure or employment. Moreover, while reference is made to the path being a safe route to school, the location or type of schools accessible from the path has not been identified. Based on the evidence before me, and my own observations, the level of service provision within a reasonable walking distance of the site is limited.
13. In addition, notwithstanding the lighting of the underpass, the remainder of the path is unlit which means that it is unlikely to be used when dark, including winter periods when shops are still likely to be open during some hours of darkness. It is also unlikely to be used on a regular basis in inclement weather or by those with mobility problems. Therefore, whilst I have given some weight to the potential use of the path, it would not constitute a practical or realistic alternative to the car for most day-to-day trips.
14. There is a bus stop within a short distance of the site that provides services to Tadcaster and Sherburn in Elmet every two hours. While this also weighs in favour of the development to a small degree, it cannot be considered to be a particularly regular service and is thus unlikely to provide a realistic or reasonable alternative for most everyday trips.
15. Taking all of the evidence into account, I am not persuaded to come to a different conclusion to the previous Inspector with regard to a likely reliance on the private car for future occupants. It may not be unusual for there to be a greater reliance on the car in rural areas and existing occupants in Stutton would have similar access to facilities. Nonetheless, allowing further development in such locations would only lead to a cumulative increase in the number and distance of less sustainable trips in the area.
16. Paragraph 55 of the Framework states that housing in rural areas should be located where it can maintain or enhance the vitality of rural communities. An example given is where development in one village can support those in another nearby. Whilst I recognise the relative proximity between Stutton and Tadcaster, the benefits derived from one dwelling would be limited in nature. There is also nothing before me to suggest the vitality of Tadcaster, and the small parade of shops in particular, is under threat, such that the development of a single dwelling in the countryside would be of any particular benefit. The likely reliance on the car may also serve to reduce any functional relationship between the appeal site and nearby services, thus further reducing the already limited benefits to the vitality of nearby communities.

17. For the above reasons, I conclude that the development would not provide a suitable site for housing in terms of its access to everyday facilities and a reliance on the private car. This would conflict with paragraphs 17 and 29 of the Framework, which seek to actively manage patterns of growth to make fullest possible use of walking, cycling and public transport, and giving people real choices about how they travel. Moreover, it conflicts with the core planning principle of moving to a low carbon economy. This is consistent with the view of the previous Inspector and the evidence does not lead me to a different conclusion.

Other Matters

18. The appellant has drawn my attention to a nearby outline planning permission granted by the Council in 2015⁴. The circumstances are similar to the appeal case. Whilst I have had regard to this decision and recognise the importance of consistency in the planning system, I am also mindful that this permission pre-dates the previous appeal decision on this site. The previous Inspector's view with regard to the accessibility of the site and his resulting concerns over reliance on the car and the resulting sustainability implications cannot be overlooked. While I recognise that the five year supply context has changed and thus the weight given to certain development plan policies has been reduced, these are still important factors which must be weighed in the overall planning balance.
19. As such, whilst this decision pulls in a different direction and raises concerns not addressed in the Council's earlier reasoning, it nevertheless raised issues which the Council were required to consider and give weight to in the balance against the benefits of the proposal. In taking account of the most up-to-date context, and giving due weight to all material considerations, I have no concerns with the Council's approach to determining the application.
20. My attention has been drawn to a number of appeal decisions by both parties. I have not been provided with the full details of these and thus cannot be certain that they represent direct parallels to the case before me, particularly in terms of access to facilities. However, in the main these decisions serve to demonstrate that the planning balance must be assessed on the individual merits of each case. It is apparent that each Inspector determined, as have I, on the information before them and their observations of the sites and surroundings. I find nothing in these decisions that would lead me to a different conclusion.
21. Both parties have drawn my attention to a guidance note produced by the Council which explains how they intend to address proposals in light of not having a five year supply. This note is not policy and appears only to confirm the proper approach to addressing applications in light of paragraph 49 and 14 of the Framework.
22. The Council raised no overriding concerns over the impact of development on such things as character and appearance, living conditions, drainage, highways, or other factors listed in the note. While I have seen nothing that would lead me to conclude differently on these matters, the lack of harm with regard to these factors does not alter the fact that harm has been identified in terms of the location and accessibility of the development. The note makes

⁴ 2015/0271/OUT

reference to the fact that the settlement hierarchy remains a key consideration, as does the access to facilities. However, in any event, the Council were entitled to consider the poor level of service provision within Stutton itself and the likely reliance on the car as harmful factors which conflict with both the development plan and national policy. I am therefore satisfied that the Council has approached the decision in accordance with its own guidance and, more importantly, that required by planning law, the Framework and Policy SP1.

Planning Balance and Conclusion

23. I have concluded that the proposal would be contrary to CS Policy SP2(c) and SP15(a) and that it would be in a location with poor access to everyday facilities by a range of means of transport in conflict with the objectives of the Framework. Although CS Policy SP2 is out of date, this does not mean that it no longer applies. Indeed, there remains a broad consistency between the aims of the policy and the Framework in terms of focussing development in locations with good access to services and facilities and actively managing patterns of growth to make fullest possible use of public transport, walking and cycling. As such, some weight should still be given to this policy, though clearly less than if there were a five year supply of deliverable housing sites.
24. The poor access to everyday services and facilities within Stutton itself and the reliance on the car would conflict with the social and environmental dimensions of sustainability as set out in paragraph 7 of the Framework. As a result, the development would also conflict with the economic dimension in terms of not providing housing in the right places.
25. Balanced against this is the provision of one dwelling to the housing land supply. Whilst I have given proper regard to this in the context of the five year supply, a single dwelling would make only a small contribution to the shortfall and thus I attach only limited weight to this factor. There would be economic benefits in terms of additional expenditure to help support the local economy, a contribution to the Community Infrastructure Levy and, for a temporary period, the construction industry. However, a single dwelling would also provide only limited benefits in this regard.
26. Having assessed the development proposal against the policies in the Framework when taken as a whole, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of a single dwelling. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal does not represent sustainable development. In this regard, the development would also conflict with CS Policy SP1.
27. In the circumstances of the appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan. For this reason, I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR