
Appeal Decision

Site visit made on 6 June 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 13 July 2017

Appeal Ref: APP/P1615/W/17/3170312

Chapel Cottage, Playley Green, Redmarley, Gloucestershire GL19 2NB

- 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 C Williams against the decision of Forest of Dean District Council.
 - The application Ref P0548/16/OUT, dated 17 December 2015, was refused by notice dated 21 October 2016.
 - The development proposed is an outline application for proposed residential development.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs made by Mr C Williams against Forest of Dean District Council is the subject of a separate Decision.

Preliminary matters

3. The application was made in outline with matters relating to appearance and landscaping reserved for future consideration. I have determined the appeal on the same basis and have treated the plans showing elevational treatment as indicative only.
4. I wrote to the parties inviting comments following the Supreme Court (SC) judgment¹ of 10 May 2017 concerning the interpretation of paragraph 49 of the National Planning Policy Framework (the Framework) and its relationship with paragraph 14 of the same. I have considered the implications of this judgement and the responses from the parties below.

Main Issues

5. The main issues are:
 - whether the proposal is consistent with the current development plan policies and the Framework relating to the location of new housing development;

¹ Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)

- the effect of the proposed development on the character and appearance of the area; and
- the effect of the development on the living conditions of the occupiers of Chapel Cottage, with particular reference to privacy.

Reasons

Location of new housing development

6. The Forest of Dean Core Strategy (CS) Policy CSP.4 requires that new development reinforces the existing settlement pattern and expects most changes in towns and villages to take place within the settlement boundaries. Identified exceptions, including affordable housing, do not apply to the appeal proposal. Areas outside the settlement boundaries are treated as part of the open countryside. CS Policy CSP.5 also restricts new housing development outside settlement boundaries.
7. The appeal site in the main comprises part of an open agricultural field and to a lesser extent also incorporates residential curtilage in its south west corner. The majority of the area which would be developed does not therefore amount to previously developed land. It is situated to the north of an existing group of dwellings in the small hamlet of Playley Green. For the purposes of the development plan, Playley Green is not a recognised settlement and has no defined settlement boundary. Accordingly, the site falls within the open countryside.
8. By diverting housing development away from the settlements to which it should primarily be directed the proposal would not contribute to reinforcing the existing settlement pattern and would therefore be in clear conflict with CS Policies CSP.4 and CSP.5. Whilst it is stated that a proposal for four houses would have no material impact on these policies, such an argument could repeatedly be applied to the overall detriment of the character of an area and the objectives CS Policies CSP.4 and CSP.5 to promote thriving and sustainable communities.
9. However, the Council acknowledges that it cannot currently demonstrate a five year supply of deliverable housing sites. In such cases, paragraph 49 of the Framework applies and the relevant policies for the supply of housing are deemed to be out-of-date. The SC judgement referred to above makes clear that the primary purpose of paragraph 49 is to trigger the operation of the 4th bullet point of paragraph 14, ie the tilted balance, which is that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
10. The important issue is not the categorisation of development plan policies as “policies for the supply of housing” but whether the application of these policies is achieving, as is not the case here, a five year supply of deliverable housing in accordance with the objectives of paragraph 47 of the Framework thereby boosting the supply of housing. It is the shortfall itself which is the trigger for the operation of the 4th bullet point of paragraph 14.
11. The SC considered that it was unnecessary to label policies as “out-of-date” to determine the weight to be attributed to them under paragraph 14, confirming that the weight to be given to relevant development plan policies is a matter of planning judgement for the decision-maker.

12. Although the CS predates the Framework, the Inspector's Interim Findings for the emerging Allocations Plan (eAP) considered that the CS strategy of directing development in a proportionate manner to the hierarchy of rural villages and of limited change at the smaller villages is not inconsistent with the Framework. However, to apply these restrictive policies with full rigour would presently frustrate the Council achieving a five-year supply of deliverable housing in accordance with the objectives of the Framework. This therefore limits the weight I have given to CS Policies CSP.4 and CSP.5 and the conflict I have found with the same.
13. Nevertheless, paragraph 55 of the Framework advises that, to promote sustainable development, rural housing should be located where it would enhance or maintain the vitality of rural communities and avoid new isolated homes unless there are special circumstances.
14. Whilst the site is not isolated in the sense that it is located close to an established group of dwellings, Playley Green does however have very few services and facilities. There are no shops. I noted a post box and a bus stop. The latter is situated adjacent to an overgrown soft verge. There is no shelter or footpath and users would be forced to stand and wait on the roadside in hatched markings where there is no street lighting. This would not be an attractive proposition and I have no evidence that there is a level of service which would outweigh these negative factors.
15. There is an equestrian centre located close by and a cricket club to the south. Notwithstanding the connections to the latter, whilst providing recreational benefits, neither would make a material contribution to the day to day living requirements of residents. There is a public house relatively close to the appeal site on the A417, however, connections are poor with no footpaths or street lighting along either the A417 or Bromsberrow Road.
16. Although Redmarley is recognised as a small village with a settlement boundary, the appeal site is located approximately 800m to the east and connections to it are poor along winding rural roads with no footpaths or street lighting. The routes would not therefore be attractive for pedestrians and would be unlikely to encourage cycling, particularly in winter. In any case, Redmarley is also limited in terms of its services and facilities. Therefore, further travelling distances would be required to access a greater range. Whilst Staunton and Corse may offer a doctors surgery and dispensary, these are further still from the appeal site.
17. Taking account of all the above matters, I consider that the appeal site is poorly located in terms of access to services and facilities. The linkage between the site and basic service provision is poor and occupiers of the proposed dwelling would in practice be very reliant on a private car. Consequently, the proposal would not contribute to sustainable travel patterns.
18. The proposed dwellings would in this sense be quite isolated. I am not therefore convinced that it would make any significant contribution to the vitality of the rural communities so as to support, for example, the limited services in Redmarley and the social dimension of sustainable development.
19. The appellant has made reference to a planning permission granted in Bromsberrow Heath but as pointed out by the Council, that site is located much closer to a settlement boundary than the appeal proposal. Moreover, the CS

identifies Bromsberrow Heath as being a small village which has some local services/facilities but has generally very limited opportunity for additional development. Similarly, I note that the appeal decision² referred to by the appellant at Redmarley relates to a site adjoining that settlement boundary. For the appeal decision³ at Hartpury, I again note the Inspector's observation that although located outside its small village settlement boundary, a number of services and facilities are located close to that site.

20. The appellant has also referred me to appeal decisions⁴ at Pendock, however, these relate to a different local authority and a different development plan. In any case, the Inspector notes that Pendock is defined as a village which provides some local services and facilities and is suited to accommodate market and affordable housing needs.
21. In contrast, Playley Green is not a settlement with a defined boundary. It is the type of hamlet identified in paragraph 7.75 of the CS that generally has no facilities or very few, which is small and not intensively developed and looks like part of the countryside. The paragraph states that very few could be described as being sustainably located in terms of being within easy reach of a range of transport alternatives or having easy access to some basic facilities and will not be generally suitable for new housing, with the possible exception of very modest developments of affordable housing under policy CSP5, and exceptionally conversions. In my view these are characteristics applicable to the appeal site which primarily comprises an open agricultural field and is not located within the built framework and developed context of a settlement. Although the appeal site is closer to the school in Redmarley than Bromsberrow Heath, both would likely involve car journeys. I do not therefore consider that the decisions referred to by the appellant support allowing planning permission in the particular circumstances of this case.
22. I therefore conclude that the proposed development would be unsustainably located and inconsistent with paragraph 55 of the Framework and to emerging Allocations Plan (eAP) Policy AP 1, the first part of which states that in assessing planning applications the primary consideration will be whether or not the development proposed is sustainable with the overall aim of improving the economic, social and environmental conditions of the area. Having regard to the stage of preparation plan and the consistency of this part of the policy with the Framework, I am able to afford moderate weight to it. The second part of the policy relates to the assumption that allocations in accord with the CS and AP are able to be implemented in a sustainable manner. The appellant explains that there are unresolved objections in this regard and this therefore limits the weight I have attributed to this aspect of the policy.

Character and appearance

23. At present, Playley Green is small scale with circa 15 dwellings. Four additional dwellings would therefore be significant in this context. I accept that there are existing houses to the south and west but the appeal site flows into a flat open agricultural field to the north and east. There are no physical features within the field to define the extent of the site which therefore physically and visually

² Appeal Ref: APP/P1615/W/15/3134518

³ Appeal Ref: APP/P1615/W/16/3151911

⁴ Appeal Ref: APP/J1860/W/16/3155541 and APP/J1860/W/15/3135877

appears as part of the countryside, rather than the built aspects of Playley Green.

24. Although matters relating to appearance and landscaping are reserved for future approval, layout and scale are matters currently before me. As the site in the main currently comprises an undeveloped field, it is inevitable that the erection of four dwellings of the scale and layout proposed would introduce significant built form into the site where none presently exists. Along with the associated domesticating features, the proposal would fundamentally change the character of the site and result in encroachment into the countryside from the edge of the existing built form, thereby eroding the rural and open character of the area. I acknowledge that the site is not located within the Green Belt, nevertheless, the proposal would be harmful to the existing open character of the site.
25. Whilst the layout demonstrates that much of the existing hedgerow to Playley Green can be retained, the appeal dwellings would be clearly seen above the hedge and through the access gap in the views from the west, which are currently rural in nature.
26. At present the eastern boundary to the wider field is post and wire fencing. Consequently it effectively allows unobstructed views of the appeal site. I have carefully considered the appellant's Landscape Appraisal and the response from the Council's landscape officer. However, the new hedgerows shown on the proposed site layout and the tree planting would take many years to establish and even longer to provide effective mitigation and screening and to realise any significant landscape benefit. In the meantime the proposal would result in significant harm to the open landscape setting to Playley Green.
27. Reference is made by the appellant to large schemes approved at Newent, Lydney and Tutshill, however, I have limited details with which to compare. In any case, I have considered the appeal proposal on its own merits.
28. The nearest listed building to the site is that of The Oaks (grade II), to the south east. Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting. Given the proposed siting of the dwellings set back within the site and the positioning of the Oaks set back behind the existing trees, I am satisfied that the proposal would preserve the setting of the same. Similarly, given the separation and intervening vegetation and built form, the proposal would not affect the setting of Yew Tree Cottage which is also identified as a grade II listed building in the appellant's Landscape Appraisal. Again, due to the separation and the existing level of clutter around the grade II listed milestone on the eastern side of the A417, I do not envisage any material harm arising to its setting.
29. Nevertheless, for the reasons I have explained, the proposal would result in significant harm to the character and appearance of the area, contrary to CS Policy CSP.1 and eAP Policy AP 1. These state, amongst other matters, that the design and construction of new development must take into account important characteristics of the environment and conserve, preserve or otherwise respect them in a manner that maintains or enhances their contribution to the environment.

30. I also find that the proposal would be contrary to paragraphs 7 and 17 of the Framework which highlight, amongst other things, that the intrinsic character and beauty of the countryside should be recognised.

Living conditions

31. The Council's third reason for refusal relates to overlooking from the first floor window of the proposed dwelling at plot 4, into the home and garden of the existing property at Chapel Cottage. However amended drawings⁵ provided by the appellant, show the first floor window of the proposed dwelling at plot 4 facing away from Chapel Cottage to the east. On this basis no unacceptable overlooking would occur.
32. I am therefore satisfied that this is a matter which is capable of being resolved and secured by way of a condition. On this basis I conclude that the proposal would not result in unacceptable harm to the living conditions of the occupiers of Chapel Cottage or conflict with paragraph 17 of the Framework, which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings. I also do not find conflict with Forest of Dean Residential Design Guide in this regard.
33. Whilst the Council's third reason for refusal refers to conflict with CS Policy CSP.1, this relates to design, environmental protection and enhancement and in my view has limited relevance to this main issue.

Planning balance

34. The Council acknowledges that it cannot currently demonstrate a five year supply of deliverable housing sites. It is therefore necessary to consider whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in Framework taken as a whole.
35. Paragraph 7 of the Framework states that there are three dimensions to sustainable development: social, economic and environmental. Dealing firstly with the social dimension, the proposal would increase housing supply and choice in accordance with paragraphs 47 and 50 of the Framework and in doing so would contribute to addressing the deficit in the five-year supply of housing. This clearly weighs in favour of the proposal and limits the weight I have given to the conflict with CS Policies CSP.4 and CSP.5. However, in this case the benefit would be limited due to the modest number of dwellings proposed and my conclusion that this is not a sustainable location for new housing development. In overall terms I therefore find that the proposal would not meet the social dimension of sustainable development.
36. In terms of the economic dimension of sustainable development, the proposal would provide employment and benefits to the local economy during the construction period and in doing so contribute to a strong and competitive economy in accordance with section 1 of the Framework. Due to the temporary nature, this attracts limited weight in favour of the appeal proposal.
37. In terms of the environmental dimension of sustainable development, I have found that the proposal would result in significant harm to the character and appearance of the rural area such that the environment dimension of

⁵ P004 B and P006 A

sustainable development would not be met. This is a matter which significantly weighs against the appeal proposal.

38. No evidence has been provided that the development would result in the loss of best and most versatile agricultural land and I have not therefore considered this matter further.
39. Overall, when assessed against the policies in the Framework taken as a whole, I conclude that the totality of the harmful impacts would significantly and demonstrably outweigh the benefits of the scheme such that the proposal would not amount to sustainable development.

Conclusion

40. Therefore, for the reasons explained, and taking all other matters into consideration, including those letters of support, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR