
Appeal Decision

Site visit made on 31 October 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 8th January 2018

Appeal Ref: APP/P1615/W/17/3180481

Shepherds Hill Cottage, Red Ditch Lane, Redmarley, Gloucester, GL19 3HT.

- 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 Arnall against the decision of Forest of Dean District Council.
 - The application Ref. P0240/17/FUL, dated 16 February 2017, was refused by notice dated 13 April 2017.
 - The development proposed is the erection of a dwelling and garage and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the principle of development accords with the provisions of the development plan;
 - Whether the Council can demonstrate a five year supply of deliverable housing sites.
 - The effect on the character and appearance of the area; and
 - Whether the site lies in an accessible location.

Reasons

Background

3. The appeal site lies in a group of two houses in an area of open countryside to the south of the village of Redmarley D'Abitot. The site comprises an oblong area of mowed grassed land which is situated between the existing properties of Lark Rise and Shepherds Hill, the latter being the appellant's property, and the site is served off a gravelled track leading to the highway. The appellant's agent says that the land has been used as a garden in connection with Shepherds Hill and therefore constitutes 'previously developed land' but such status is disputed by the Council. The site is bounded by a hedgerow, contains a mature tree and because of its elevated position on undulating land there are extensive views over open countryside to the south.

4. It is proposed to erect a two storey dwelling on the site although the upper floor would be partly formed within the roof-space and the overall appearance of the new property would be as a large cottage. The appellant says that it is intended that the house would be occupied by his son and family and should be seen as a form of self-build.

Policy context and housing land supply

5. The development plan for the area includes the Council's Core Strategy (CS) adopted in February 2012. This predates the National Planning Policy Framework (the Framework) but weight can be given to the policies in the CS depending on the degree of consistency with the Framework.
6. The Council says the new 'Allocations Plan' (AP) is in the process of being examined. I understand that the examining Inspector has suggested Main Modifications which were approved by the Council for public consultation on the 19 October 2017 and that this consultation is occurring at the time of considering this appeal. The Council suggests that the AP will be adopted in a very short timeframe but the 'final comments' from the appellant's agent suggest the spring of 2018 at best, depending on the Final Report from the Inspector. While the AP has progressed some way through the statutory process, at the moment only moderate weight can be given to its provisions as they may change.
7. In terms of housing land supply, the appellant says and the Council appears to acknowledge in the copy of the officer report submitted with the appeal that at the moment the Council cannot demonstrate a five year supply of housing sites in accordance with paragraph 47 of the Framework. This position is not challenged by the Council. Therefore, on the evidence before me, I find that paragraph 49 of the Framework applies and policies for the supply of housing should be regarded as 'out of date' and the final bullet point of paragraph 14, often referred to as the 'tilted balance', applies in this case.

Principle of development

8. Within the development strategy set out in the CS, Policy CSP.4 indicates that in principle, new development must contribute to reinforcing the existing settlement pattern of towns and villages and will be expected to take place within the existing boundaries of these settlements. Areas outside of such settlements will be treated as open countryside.
9. In this case from my observations at my site visit it appeared to me that the appeal site and the small group of houses around it were physically separated from the main part of the village of Redmarley. Although the village has a scattered but also linear pattern I noticed that in terms of its southern element the pattern and main built form of the village stops well short of Red Ditch Lane and the site should properly be regarded as being in the countryside.
10. I therefore find that the principle of development would not be in accordance with Policy CSP4 of the CS. This policy is broadly in accordance with the provisions of the Framework which has a core principle of recognising the intrinsic character and beauty of the countryside.
11. In order to promote sustainable development in rural areas, the Framework advises in paragraph 55 that housing should be located where it will enhance or maintain the viability of rural communities but that isolated new houses in the

countryside should be avoided. The term isolated was considered by the High Court in the recent case of *Braintree*¹ and the parties were invited to comment on the bearing of the judgement in this case. The Court held that the term 'isolated' should be given its ordinary meaning of "far away from other places, buildings and people; remote". While the proposed house would not be *isolated* because of the close proximity of a few other houses, I find it would lie well away from the village and be remote in the generally open countryside.

12. I note the appellant's agent's argument that the site cannot be regarded as isolated because it should be regarded as a brown field site as part of a residential curtilage, but this is a reflection of the extent of the curtilage of the existing dwelling rather than a characteristic of an acceptable location for new development. The site's status as residential curtilage is also disputed by the Council. Moreover, the appeal site has no permanent structures on it, as distinct from the neighbouring house, which appears to have been a factor in the Court of Appeal decision referred to by the agent in paragraph 1.4 of his Statement.
13. In the officer report the Council also refers to CS Policy CSP.5 concerning 'Housing' but while this identifies housing provision within stated locations/settlements these do not appear to include Redmarley and there are no other representations from the Council as to how this policy is relevant to the proposal. Further, it appears to me to be a policy primarily for the supply of housing and therefore little weight can be placed on it given my comments above regarding housing land supply.
14. Overall, I conclude on this issue that the principle of the development of a new dwelling on this site is contrary to the provisions of the development plan, particularly Policy CSP.4.

Effect on the character and appearance of the area

15. The Council does not raise objection to the design and scale of the dwelling proposed and I agree that there are no concerns over these design matters. The Council refers instead to the 'detriment to visual amenity', which I take it to mean the general presence of the new dwelling in the countryside landscape. At my site visit I noted that the site lies in an elevated position where there are extensive views over undulating countryside particularly to the south. I judge that these views will have 'inter-visibility' and also there is a public footpath along the Red Ditch Lane and also to the south and east of the site which will contribute to the public realm. The new house proposed would project above the existing hedges that enclose the site and consequently the house would be likely to appear prominent in the landscape both to private views and to the public realm. Such development although small in scale on an individual basis, would contribute to a fundamental change in the character of the open countryside and make it appear noticeably more built up.
16. Overall, I find that the proposal would have a harmful and imposing effect on the otherwise open landscape of this area of countryside and would not conserve or preserve this rural character and this would not accord with the provisions of Policy CSP.1

¹ *Braintree DC v SSCLG & ORS* [2017] EWHC 2743 (Admin)

Accessibility

17. Under this issue the Council submits that the site is remote from a range of modes of transport and day to day facilities and therefore the occupiers of the proposed dwelling are likely to rely on the use of a car. The appellant's agent says that the site lies some 400-500m from the centre of Redmarley which has the local facilities of a primary school and a village hall and there are other facilities in neighbouring villages within a cycle distance away. The Council refers to a conflict with Policy AP1 of the emerging AP but this mainly refers back to the general principle of sustainable development set out in the Framework and I have mainly had regard to this national guidance.
18. The Framework has a core principle of actively managing a pattern of growth to make the fullest possible use of public transport walking and cycling. Further, Section 4 promotes sustainable transport although the Framework recognises that different policies and measures will be needed in different areas and will vary from urban to rural areas.
19. At my site visit I considered the distance the appeal site lies from Redmarley and the local bus route together with the general provision of services and facilities necessary for day to day living. I have also taken account of the nature of the local lanes which in the main did not have a separate footpath. In my view the site does not lie in an area with reasonable accessibility to a range of transport modes or the main day to day facilities and I agree with the Council that the occupiers of the house would be likely to rely on the use of a car to go about a normal way of life. It therefore appears to me that the site does not fit in with a pattern of development that would reduce the need to travel particularly by car, as encouraged by the Framework.

Planning balance

20. Bringing together my conclusions on the main issues I have found that at the moment the Council cannot demonstrate a five year supply of housing sites in accordance with the requirements of paragraph 47 of the Framework and therefore paragraph 49 is engaged and policies in the development plan for the supply of housing have to be considered as out of date. Nevertheless, I have found that the principle of the proposal for a new dwelling in this location would conflict with the strategy to regulate the pattern of growth set out in Policy CSP.4 of the Core Strategy. Even if part of this policy is regarded as relating to housing supply, it also deals with the protection of the countryside for its own sake which is consistent with the Framework therefore overall I conclude that the policy should be afforded significant weight.
21. For similar reasons I attached moderate weight to my conclusion that the proposal would harm the appearance of the generally open landscape of this area of countryside away from Redmarley. I also concluded that the site is not reasonably accessible by a range of transport to day to day facilities and the proposal would not fit in with a pattern of development that would reduce the need to travel, as encouraged by the Framework.
22. These aspects amount to significant adverse effects but they have to be balanced with the benefits of development. I acknowledge that the proposal would make a small contribution to boosting housing supply locally and as the house is intended for the appellant's son and would be a form of self-build, this

is generally supported by the government as it would make a contribution towards the range of housing available.

23. However, even if I were to place weight on the appellant's submission that as part of the existing curtilage of a dwelling it should be regarded as 'previously developed land', the development of a new house in this location would constitute further scattered development in the open countryside and this would conflict with the fundamental character and appearance of such an area.
24. I conclude that although the proposal would have some social and economic aspects that would support these dimensions of sustainable development, the proposal would have significant environmental concerns about protecting the natural environment and the overall accessibility of the site, and these would not fulfil the environment dimension. I find that the proposal would not constitute 'sustainable development' when the Framework is read as a whole.
25. I have also taken account of the other appeal decisions put to me which have arisen locally or in neighbouring areas, but I do not consider that these deal with the same circumstances that have arisen in this case which I have considered on its individual merits, in relation to recent case law, the development plan as it now stands and other material considerations.
26. Applying the 'tilted balance' based on the final bullet point of paragraph 14 of the Framework I conclude that the adverse effects would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Overall, I find that the conflict with the development plan is not outweighed by any other consideration and therefore the appeal should not be allowed.

Conclusions

27. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR