
Appeal Decision

Site visit made on 8 May 2018

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th May 2018

Appeal Ref: APP/H1840/W/17/3188483

Cornfield to north side of Church Lane, Pinvin

- 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 Chris Coates against the decision of Wychavon District Council.
 - The application Ref 17/01397/OUT, dated 4 July 2017, was refused by notice dated 19 September 2017.
 - The development proposed is for the erection of 5 dwellings.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application was expressed in outline with all matters reserved for future approval. It was accompanied by a plan depicting a possible housing layout, which was submitted for illustrative purposes only. I have considered the appeal on this basis.

Main Issues

3. The main issues in this appeal are firstly whether the proposal would be in an appropriate location, having regard to the aims and objectives of national and local planning policies that seek to restrict housing outside development boundaries and, secondly; the effects of the proposed development on the settings of St Nicholas Church Grade II* listed building and Tudor House Grade II listed building and nearby non-designated heritage assets.

Reasons

Suitability of location

4. The appeal site comprises some 0.45 hectares of relatively flat land, located on the northern side of Church Lane and opposite a ribbon of modern suburban houses that front the lane before it reduces in width to a single track. The field opens out to other fields on the edge of the settlement; directly adjacent to the heavily planted western boundary is Tudor House, a much altered timber framed dwelling and listed building. In the middle distance and some 70m to the north lies St Nicholas Church which is also a listed building.

5. Policy SWDP 1 of the South Worcestershire Development Plan (SWDP), adopted in 2016, sets out the "Overarching Sustainable Development Principles" against which the Council will assess proposals for development. It echoes paragraph 14 of the National Planning Policy Framework (the 'Framework'), which states that there is a presumption in favour of sustainable development.
6. This paragraph goes on to say that proposals that accord with the development plan should be approved without delay; and that where the development plan is silent, or relevant policies are out-of-date, planning permission should be granted unless (i) 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; or (ii) specific policies in the Framework indicate that development should be restricted. In this case, there is no suggestion that part (ii) comes into play.
7. Paragraph 49 of the Framework is also relevant as it states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. In this case, the Council is able to demonstrate a deliverable five year housing supply, and there is therefore no suggestion that its housing policies should not carry full weight.
8. Policy SWDP 2 of the SWDP provides a delivery strategy and settlement hierarchy and sets out where development will be acceptable within the District. It identifies Pinvin as a Category 2 village with the planning officer's delegated report explaining that it is moderately sustainable having at least two key services and access to at least daily services for employment and shopping purposes. Further, the site is within relatively close proximity to a range of services, facilities and public transport links as confirmed by the officer. Therefore, the appeal site is not viewed as being located in an unsustainable location and I agree with the appellant that the site cannot be considered as isolated in the meaning set out in the Framework.
9. Policy SWDP 2 amongst other things however, states that the open countryside is defined as land beyond any development boundary, and development in such locations will be strictly controlled and will be limited to certain categories, none of which would apply in this case.
10. This places the proposed development in conflict with an up-to-date development plan and, as such, it cannot benefit from the presumption in favour of sustainable development set out in paragraph 14 of the Framework. This is made clear in the 'Barwood' judgment¹, which indicates that if a proposal is inconsistent with paragraph 14 of the Framework, it cannot be a sustainable development in the context of that paragraph.
11. Having regard to the above factors and, as the site is by definition classified as falling within the countryside, the proposed development would directly and unacceptably conflict with Policies SWDP 1 and SWDP 2 of the SWDP and thereby seriously undermine the established settlement hierarchy. Consequently, it would not accord with the development plan.

¹ East Staffordshire BC v SSCLG and Barwood Strategic Land [2016] EWHC 2973 (Admin), dated 22 November 2016

Effects of the proposal on heritage assets

12. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires that special regard shall be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development. The Framework defines the setting of a heritage asset (i.e. here, the listed buildings and non-designated heritage assets) as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be attached to the asset's conservation and, in essence, the more important the asset, the greater the weight should be.
13. The significance of a heritage asset is defined in the Framework as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance is derived not only from a heritage asset's physical presence, but also from its setting. Significance may be harmed by a development and it is necessary to determine the degree of harm that may be caused.
14. In relation to St Nicholas Church, I saw at my site visit that the building is set within what still appears as relatively tranquil countryside; it remains somewhat isolated being surrounded by open fields and a small nucleus of cottages and agricultural buildings. Accordingly, the building has a strong presence in this mainly rural landscape. The setting benefits from the low key rural quality of the access lanes leading to the church as well as the mainly agrarian landscape that surrounds the building. From the approach roads to the church from the south, the lack of development on the northern side of Church Lane means that there is a very obvious, immediate and longstanding "rural" and undeveloped foreground to St Nicholas Church. The lack of any built structures or significant tree planting in this foreground means that the immediate hinterland to the south of the church comprises a significant element of the current setting of the Grade II* listed building, which contributes to its significance both as a heritage asset, as well as an historic component of the village. Moreover, the wider setting that includes the appeal site remains essentially unaltered.
15. Turning to Tudor House, clearly the building has evidently been substantially altered and is set within extensive hedgerow and tree planting that provide significant screening between the house and the appeal site. Thus views both from the listed building towards the site and from the site to Tudor House are somewhat intermittent. Having said that, I consider that, as a characteristic, albeit significantly altered, example of the local vernacular, its form and qualities remain entirely legible and it retains significant value as a building of historic and architectural interest. The principal views of Tudor House would be from the approach road from the east and west. Despite the filtered and intermittent nature of those views, it was very apparent to me that the continuation of the ribbon development would impact unacceptably on the setting of this listed building and would dominate the backdrop to this longstanding and pleasing association with the open agricultural setting.

16. I fully recognise that development within a listed building's otherwise undeveloped setting need not be regarded as harmful in principle, and can be regarded as either neutral or enhancing and can be assisted by good design. Notwithstanding, development on the appeal site, however well designed and finished, would inevitably be intrusive and harmful in what I regard as an important part of the setting of both listed buildings. Accordingly, it would fail to satisfy policies SWDP 6, SWDP 21 and SWDP 24 of the SWDP which make clear, amongst other things, that new development should not adversely affect the setting of heritage assets, including listed buildings. The setting's contribution to the significance of both listed buildings would be harmfully reduced, though not to the extent that their special interest would be completely or almost completely lost. Rather, less than substantial harm would result.
17. Turning to the alleged impacts on the setting of non-designated heritage assets comprising the farm buildings and cottages in the vicinity of the church, given the low lying nature of these buildings set within formal landscape features, I do not accept that the proposed development would be harmful to their settings in the same way as I have found in relation to the two designated heritage assets. Accordingly, the development would comply with the above policies in so far as they are directed at non-designated heritage assets.

Other matters

18. Whilst concerns have been expressed by local residents that Church Lane itself is too narrow and devoid of passing places and that there is a problem with surface water disposal, these concerns are not shared by either the Council or its statutory consultees. Similarly, the Council has not raised the matter of loss of potentially valuable agricultural land. The absence of such harms is a neutral consideration in this appeal however.

Balancing exercise and conclusion

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. There is no dispute that the Council is able to demonstrate a five year supply of housing land and, having regard to paragraph 49 of the Framework, I have seen nothing that suggests the Council's housing policies are not up-to-date. Thus, the weighted balance at the fourth bullet point of paragraph 14 of the Framework is not brought into play in this appeal. That said, I am still required to apply the planning balance of the particular circumstances of the appeal development.
20. As noted above, the Barwood judgement indicates that a proposal cannot be a sustainable development if it is inconsistent with paragraph 14 of the Framework. However, I have considered the proposal against the three dimensions of sustainable development – economic, social and environmental – set out in the Framework and have also assessed its benefits.
21. In terms of its benefits, the proposal would lead to construction work and other economic benefits arising from future households spending on services and facilities in the local area. Despite the modest nature, these are positive economic benefits.

22. The proposed development would lead to an increase in the supply of housing as required by paragraph 47 of the Framework on a site that I have found to be reasonably located with regard to the facilities and services of this Category 2 village and to public transport opportunities. The social benefits of supporting strong, vibrant and healthy communities through the supply of housing to meet the needs of present and future generations counts in favour of the proposal.
23. With regard to the environmental dimension, I have found that the appeal site lies within and has a close physical relationship with the setting of two listed buildings and would cause harm to the significance of these designated heritage assets as a result. This harm would be less than substantial however. Paragraph 134 of the Framework states that, where a development proposal would lead to less than substantial harm, that harm should be weighed against the public benefits arising from the proposal. Paragraph 132 advises that, when considering the impact of development on the significance of a designated heritage asset, great weight must be given to the asset's conservation and that the more important the asset, the greater the weight that should be given. Section 66(1) of the Act requires that, in carrying out the necessary balancing exercise, I should have special regard to the desirability of preserving the buildings and their settings.
24. I accept that the provision of five new homes would constitute a public benefit; however, I would fully expect the Council to deliver housing on policy-compliant sites rather than in the countryside. I have no evidence to suggest that the Council is not doing this. The provision of energy efficiency measures as proposed whilst an environmental benefit would not be a decisive public benefit in my view. I have also found that the economic and social benefits that would be derived from the development would also be limited. Accordingly, I find that no public benefits have been demonstrated that would outweigh the harm to the setting and significance of the Grade II* St Nicholas Church and the Grade II listed Tudor House. Thus the environmental dimension would not be met.
25. The appellant has drawn my attention to a number of appeals² in the Malvern Hills District where planning permission was granted despite being in conflict with policy SWDP 2 of the SWDP. However, it seems to me that the proposals were for relatively small scale development where they would lead to an enhancement of the character and appearance of the area.
26. The appellant also referred to a recent decision by the Council to support a scheme for 20 houses in Pershore. In this case, such a decision appeared to have been based on the benefits derived from "other material circumstances", including the fact that the site was surrounded by existing development. Although the details of the development of 40 dwellings in Pinvin are not available to me, such scale of development would make a substantial contribution towards Government policy of *significantly boosting housing supply*. Importantly, none of these proposals appeared to have such harmful effects on designated heritage assets. It is important that applications are determined on the basis of their individual merits and this is what I have done in this case.

² APP/J1860/W/17/3176459, APP/J1860/w/17/3172760, APP/J1860/W/16/3164875

27. Taking all the the above into account, I consider that the benefits of the appeal scheme are not sufficient to outweigh the conflicts with the development plan and that weighty and therefore exceptional material consideration sufficient to grant planning permission would not apply in this case.
28. For the above reasons and having taken all other matters into account, I conclude that the appeal should be dismissed.

Gareth W Thomas

INSPECTOR