



Appeal Decision

Site visit made on 24 September 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/W1850/W/19/3221760

Upper House, Castle Road, Richards Castle SY8 4ER

- 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 Mrs L.Choblet against the decision of Herefordshire Council.
 - The application Ref 182162, dated 11 June 2018, was refused by notice dated 15 August 2018.
 - The development proposed is a dwelling and associated garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has requested that the appeal is dealt with by way of a hearing. However, the Council has confirmed it is happy for the appeal to proceed by way of written representations and, following my assessment of the evidence I am satisfied that I have sufficient information on which to make a decision.
3. The appellant has submitted revised plans during the appeal process which seek to increase the number of solar photo-voltaic panels and satisfy the criteria for Passivhaus Plus certification. Within this context I am mindful of the Wheatcroft Principles derived from *Bernard Wheatcroft Ltd v SSE* (1982) which are further explained in the Procedural Guide: Planning Appeals - England¹. It is my firm view, in the interests of fairness, that this appeal must be determined on the basis of the plans submitted to the Council and upon which it based its decision, which have been subject to consultation and not the suggested amendments. To do otherwise could prejudice unacceptably the interests of interested people and/or consultees who would not have been consulted on the amended plans and who may have observations to make.

Main Issue

4. The main issue is whether the site of the proposed development is a suitable location for new housing, having regard to access to local shops, community facilities and bus services and local and national policies for development in rural areas.

¹ Procedural Guide: Planning appeals – England (2019)

Reasons

5. The site comprises part of a field, bound by mature hedgerows, located within a cluster of dwellings and other buildings. The proposed dwelling would be located to the south of Rock Cottage, a Grade II listed building, outside any settlement boundary defined within the Herefordshire Local Plan Core Strategy (Core Strategy) 2011-2031 (2015) and would be accessed via an existing section of highway with no footpath.
6. The appeal scheme would comprise a substantial detached dwelling, set back from the road at an angle with a detached garage. The appeal site is located outside any defined settlement and for the purposes of applying planning policy is within the countryside. Policy RA3 of the Core Strategy supports residential development outside of settlement where it satisfies certain criteria, including (6) where it is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework (the 'Framework') and achieves sustainable standards of design and construction.
7. Since the Core Strategy was adopted a revised Framework was published in February 2019. Paragraph 79 part (e) of the National Planning Policy Framework (the 'Framework')(2019) suggests that the development of isolated dwellings in the countryside may be acceptable where their design is of exceptional quality. However, the appeal site is within a cluster of dwellings, adjacent to Rock Cottage and is therefore not an isolated dwelling for the purposes of Paragraph 79. Nevertheless, Policy RA3 is still of relevance in determining this appeal.
8. I accept that the majority of houses constructed in the UK are not certified Passivhaus dwellings, however, the appellant asserts that 1,000 certified dwellings have been constructed in the UK between 2009 and 2018. Whilst the dwelling would be designed to be carbon negative and built to Passivhaus standard, it is not a new concept and could easily be replicated elsewhere. The dwelling has a traditional design which is not particularly unusual or innovative and the landscape and associated features here are not unique and would allow no views of significance to or from the appeal site.
9. Whilst I accept that the proposed dwelling would achieve sustainable standards of design and construction, a matter which was supported by local and national policy, as well as the Parish Council, for the above reasons I am not persuaded that the proposed dwelling would be of exceptional quality or innovative design and would therefore not meet the other requirements of Policy RA3. Consequently, the appeal scheme would conflict with Policy RA3 which seeks to control development in the countryside.
10. The appellant has drawn my attention to an appeal decision, reference APP/B3030/W/17/3169590 in Nottinghamshire and an associated judgement². However, I am not persuaded that the appeal scheme before me is comparable to the appeal scheme considered by the Inspector. Furthermore, I must consider the appeal on its own merits.
11. Policy ORC2 of the Orleton and Richards Castle Neighbourhood Development Plan (NDP)(April 2017) states that the settlements of Orleton and Richards

² Newark & Sherwood District Council vs the Secretary of State for Communities and Local Government [2018] EWHC B16 (QB).

Castle will be the focus for development within the two Parishes. Criterion c) supports housing development outside of the settlements where they would accord with relevant policies in the Herefordshire Local Plan Core Strategy. Policy ORC9 of the NDP sets out the circumstances in which new housing will be permitted in Richards Castle. The appeal site is located outside the settlement boundary of Richards Castle and the appeal scheme therefore conflicts with Policies ORC2 and ORC9 of the NDP.

12. The appeal site is divorced from Richards Castle and, given the general lack of footpaths and street lighting and gradient of the road to the settlement, I consider future occupants are unlikely to choose to walk there. This would be particularly the case for those with limited mobility, parents with young children or at night, or in inclement weather. Future occupants are therefore likely to be highly reliant on private car.
13. The appellant has advised that she is willing to provide electric charging points to assist in reducing carbon emission levels. However, it would not be reasonable to prevent future occupants from using vehicles which are reliant on fossil fuels. I therefore afford this matter very limited weight. Although environmental harm associated with the reliance on private car may be off-set to some extent by a carbon negative dwelling, there are also social benefits associated with being close to existing facilities, services and communities.
14. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. I saw that there are limited local facilities or services at Richards Castle and consider it likely that future occupants would therefore seek to meet most of their day-to-day needs elsewhere.
15. Whilst the number of daily movements which would be generated by the appeal scheme would be modest, future occupants would have a limited choice of transport mode, contrary to the objectives of the Framework, and the overall aim of the Core Strategy to reduce the need to travel. This is a significant factor weighing against the scheme.
16. For all the above reasons I therefore conclude that the appeal site is not a suitable location for a new dwelling. It would fail to enhance or maintain the vitality of Richards Castle and would conflict with the overall aims of the Core Strategy to locate new development within identified settlements. Thus, the proposal would be contrary to Policy RA3 of the Core Strategy and Policies ORC2 and ORC 9 of the NDP as detailed above.

Other matters

17. Whilst the Council did not receive objections from consultees in respect of drainage, Public Rights of Way, sewerage and water supply, the lack of objection in these respects is a neutral factor in my consideration of the appeal.
18. The site is located adjacent to Rock Cottage, a Grade II listed building. In determining this appeal, I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the listed building affected, and its setting. The appeal scheme would not directly affect the listed building and, due to its set back from the road and position

within the site, would be sufficiently distant from Rock Cottage so as not to adversely affect its setting. I therefore conclude that the proposed development would preserve the setting of the aforementioned listed building.

19. The appellant has drawn my attention to a consultation on the Future Homes Standard. However, this is a draft document and is therefore subject to change. I therefore afford it negligible weight in my consideration of this appeal.

Planning Balance and Conclusion

20. The Council has confirmed within its Statement that it is unable to demonstrate a 5 year housing supply. The Framework states that where the policies which are most important for determining the application are out of date, 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 this Framework taken as a whole.
21. I accept that the aim of the Framework is to significantly boost the supply of housing. However, as the proposal is for a single dwelling, the contribution it would make to housing supply in the area would be very limited. The proposal would provide some limited economic benefit during the construction phase and result in a slight increase in spending in the local area.
22. Paragraph 14 of the National Planning Policy Framework (the 'Framework')(2019) sets out that, in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits where certain criteria apply.
23. Criterion a) of Paragraph 14 requires that the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made. However, the NDP became part of the development plan more than two years before the date of this decision. Consequently, irrespective of the extent of new housing delivered within the Parish, conflict with Policies of the NDP alone would be insufficient to significantly and demonstrably outweigh the benefits of the proposed development.
24. Nevertheless, I have found that there would be environmental and social harm arising from the site's unsuitable location with poor access to local facilities and services. This adverse impact would significantly and demonstrably outweigh the very limited benefits associated with the provision of one additional dwelling. I therefore conclude that the development does not benefit from the presumption in favour of sustainable development.
25. For the reasons given above, and having regard to all matters raised, I conclude that the proposal would conflict with the development plan. There are no other material considerations that outweigh that conflict. I therefore conclude that the appeal should be dismissed.

M Savage

INSPECTOR