
Appeal Decision

Site visit made on 29 July 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State appointed by the Secretary of State

Decision date: 7th November 2019

Appeal Ref: APP/J3720/W/19/3223161

Lower Grounds, Main Street, Middle Tysoe, Tysoe CV35 0SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr John Scott against the decision of Stratford-on-Avon District Council.
 - The application Ref: 18/03330/FUL, dated 12 November 2019, was refused by notice dated 5 February 2019.
 - The development proposed is proposed development for the erection of 5 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Regarding supply of deliverable housing sites, the Council provides evidence of more than five years supply. The appellant reluctantly accepts that the Council is likely to have a five year supply, albeit considering that it is precarious, and has been on a downward trend since 2017. On the basis of the available evidence, I accept that the Council has a five year supply of deliverable housing sites.
3. Since the Council's decision on the appeal site, Policy CE3 of the updated Cotswolds Area of Outstanding Natural Beauty Management Plan 2018-2023 (2018) (MP) has replaced Policy DTP1 of the earlier version of the MP. The policies are broadly consistent with each other in requiring development to be compatible with the distinctive character of the location, in line with relevant landscape character assessment, strategy and guidelines. Accordingly, in my assessment of the proposal, I have regard to Policy CE3 in respect of the Area of Outstanding Natural Beauty (AONB).

Main Issues

4. The main issues are:
 - a) whether the site is an appropriate location for the proposed development, in the light of local planning policies and the development strategy
 - b) the effect of the proposed development on the character and appearance of the area, including the Cotswolds AONB, and
 - c) whether the proposed development should make provision for affordable housing.

Reasons

Location and development strategy

5. Within the development strategy of the Stratford-on-Avon Core Strategy 2011 to 2031 (2016) (CS), Policy CS.15 categorises Tysoe as a Category 2 Local Service Village (LSV). In LSVs such as Tysoe, the policy allows for the possibility of housing development, to achieve the appropriate scale as specified in Policy CS.16 of the CS, on sites identified in a Neighbourhood Plan, and through small-scale schemes, on unidentified but suitable sites within their Built-Up Area Boundaries (BUABs) where defined, or otherwise within their physical confines. Policy AS.10 of the CS sets out a similar approach at part (b), and states that BUABs will be identified through the Site Allocations Development Plan Document.
6. The site is not identified within the draft Tysoe Neighbourhood Development Plan 2011–2031 (Submission Version 2019) (NDP) for housing development. However, as the NDP is under preparation and yet to be finalised and adopted, limited weight is attached to it. The Council does not have a formally adopted boundary for Tysoe's main built-up area. Moreover, there is no such boundary before me in an adopted Neighbourhood Plan. I therefore turn to the disputed matter of whether the appeal site is within the physical confines of the village or in the countryside, which, given the above factors, is a matter of planning judgement.
7. Residential development, including the recent Red Horse Close development, adjoins the site's south-western boundary. There is then a field which is being developed for housing, beyond which is established housing, the primary school and other parts of Middle Tysoe, which includes a church, village stores and pub. Nevertheless, the appeal site is a field, bounded on two sides by other fields, with more fields opposite across Main Street, the latter of which form part of the Cotswolds AONB, which lies just outside the site. As such, from what I saw during my site visit and the aerial view, the site forms part of a distinct and substantial 'green gap' of fields, characterised by lack of built form, which separates the built-up area of Upper and Middle Tysoe - with its local facilities - from the south-western edge of Lower Tysoe.
8. I have had regard to the planning history of the site, specifically the application in 2018 for a new detached dwelling on approximately half of the current appeal site, in combination with replacement of the detached dwelling on adjacent land with four terraced cottages, which was refused, and the subsequent appeal decision¹. The previous Inspector found the following in respect of the south-eastern part of the current appeal site: other than immediately to the south, there is no significant built development abutting, or close to, the site's boundaries; and, although there is a pavement linking the site to the village's amenities and there is development to the south, the largely open appearance of the site and the land to three of its sides, is such that there is a marked change in character at this point; and the site takes on the appearance of a rural landscape, rather than land clearly associated with the built environment of the village. Whilst the proposal before me extends further to the north-west than the previous scheme, from what I saw during my site visit, the above assessment is also applicable to the appeal site before me.

¹ Ref: APP/J3720/W/18/3213341, Lower Grounds.

9. My attention is also drawn to a number of appeal decisions², and a planning permission for residential development³, on other land. However, the other sites differ from the site before me in that they are located some distance to the north-east, at Lower Tysoe, and are not situated within the distinct green gap between Lower Tysoe and Middle Tysoe. As such, the other sites are of limited equivalence to the proposal, in respect of whether the latter is within the physical confines of the village.
10. The village is identified as 'Tysoe' in Policy CS.15 of the CS. However, Middle Tysoe and Lower Tysoe are visually distinct and separated by fields and, to my mind, the village's identification as 'Tysoe' does not imply that all the land between the two parts would be within the BUAB when it is adopted, or that it is within the village's physical confines now.
11. Public rights of way are generally a common feature in the countryside and their presence on the north-western and north-eastern boundaries of the site does not, in my view, mark a natural boundary between the village and the countryside. Whilst historical mapping indicates that the site was once part of the medieval settlement, that does not change my conclusions regarding its relationship with the village now.
12. Taking the above together, I conclude that the proposed development site lies within the countryside, outside the physical confines of the main built-up part of the village of Tysoe. As such, it would conflict with Policies CS.15 and AS.10 of the CS. Together, the policies seek to ensure that, amongst other things, development in rural areas is appropriately located.

Character and appearance

13. During my site visit I saw that the area including and around three sides of the site is characterised by broadly flat fields, some of which, including the site, are used for grazing livestock. In addition, longer distance views to rising ground within the nearby AONB, to the southeast, are to be had from the site and its vicinity. Hedgerows, including established trees, line some of the field boundaries in the area. To the south-west of the site is the built-up area of Upper and Middle Tysoe. The north-eastern edge of the latter built-up-area has recently expanded towards the site due to recent housing development on the north-western side of Main Street.
14. Within this context, the site forms part of the southern edge of a distinct green gap which separates the built-up area of Middle Tysoe from the southern edge of Lower Tysoe. I saw during my site visit that the spaciousness and verdancy of the gap, including the site, are distinctive characteristics which contribute to the rural setting and identity of the village. As such, the site is part of an important visual break between Middle and Lower Tysoe, and part of a rural 'patchwork' of fields.
15. The Council's Landscape Sensitivity Assessment for Villages (2012) (LSA), produced by White Consultants, found the site to be part of an area of land of overall medium landscape sensitivity to housing development. It is recognised that the land outside the built-up areas of Tysoe which the LSA assessed was categorised as either medium, high/medium or high landscape sensitivity to housing development. This indicates that it may well be hard to find housing

² Ref: APP/J3720/W/18/3213626, The Orchards and Ref: APP/J3720/W/18/3218182, Willow House.

³ Ref:19/01529/FUL, The Orchards.

development land of low landscape sensitivity in the countryside around Tysoe. Nevertheless, the above also reflects the overall relatively sensitive landscape setting of the village, which includes the appeal site. Moreover, the LSA found the northern part of the area Ref: Ty06, in which the appeal site is located, to be more sensitive due, in part, to its link to the wider landscape. Furthermore, the site is of intrinsic value, as countryside, and it contributes to the village's setting, as described above.

16. The proposal is for five two-storey detached houses, ranging from three to five bedrooms, most with detached double garage blocks. The houses would have ridge heights of between around 7.5m and almost 9m.
17. It is recognised that proposed retained and new perimeter hedging and tree planting would provide some screening of the proposed development. Nevertheless, given the combined bulk and scale of the proposed buildings, the development would be noticeable viewed from Main Street, down the site access road and over the front hedge line. Furthermore, the proposed development, including the substantial dwelling on plot No.3, would be noticeable from the public footpath which runs alongside the north-western boundary of the site. It is also likely that the proposed development would be perceptible from the public footpath which runs alongside the north-eastern perimeter of the site, even allowing for potential boundary landscaping. Moreover, the proposed development would be visible from adjacent dwellings to the south-west, and from within the site itself.
18. The above factors, in combination, would result in a significant loss of spaciousness and verdancy, and introduction of substantial built form on the country field. This would result in harmful erosion of the green gap between Middle and Lower Tysoe.
19. The appellant considers that proposed new tree planting along much of three sides of the site would screen the scheme and visually soften the adjacent development's boundary fencing. However, given the security aspect of rear garden boundaries abutting public footpaths, I have no certainty that the north-eastern and north-western boundaries of the proposed development would not be enclosed over time by visually harsh fencing. Moreover, the proximity of proposed unit Nos.4 and 5 to the north-eastern site boundary would not leave a great deal of space for trees to grow to maturity, which would quite possibly result in future pressure from residents to remove or significantly thin such trees. Even though new landscaping would provide some visual softening of the proposed development's boundaries, the identified harm to the character of the area through erosion of the 'green gap', as described above, would outweigh this factor.
20. The inclusion of a Protected Strategic Gap between Middle and Lower Tysoe, including the appeal site, under Policy 6 of the draft NDP - as a 'crucial part' of its natural environment vision, to, amongst other things, 'protect the distinct and individual character of each settlement' - is noted. I also note the Council's comment - and the appellant's agreement with it - that the boundary of the proposed Protected Strategic Gap 'could be smaller and more precise'. In any case, given that the NDP is under preparation and yet to be adopted, limited weight is attached to the draft policy. Within this context, I assess the proposal with regard to the relevant CS and MP policies.

21. The appellant's view that the proposed development of the site would result in marginal closure of the green gap is noted. However, given its location on part of the south-western edge of the gap, the site functions partly as a green 'bulwark', helping to protect the distinctive open and verdant countryside character of the area. Moreover, the proposed development would reduce the length of the part of the green gap adjacent to the road between Middle and Lower Tysoe by around a quarter. Within this context, the proposal would unacceptably erode and undermine the rural setting and identity of the village.
22. The proposal lies just outside the Cotswolds AONB, whose boundary is on the opposite side of Main Street, but would be visible from it. Given my findings above, there would be a limited conflict with Core Strategy Policy CS.11, which states that development outside, but affecting the AONB, must not harm its special landscape qualities; and with the broadly similar objective of Policy CE3 of the MP.
23. In the recent appeal dismissal decision⁴ of May 2019, the Inspector found, amongst other things, that one dwelling on the south-eastern half of the current appeal site would result in harm to the countryside setting of the village and reduction of the green gap. By comparison, the proposal before me would entail five detached dwellings, spread across around twice the area of the appeal site. As such, for the reasons described above, the proposal would result in a significant erosion of the green gap, and increase in built form in the countryside.
24. My attention is drawn to planning permissions⁵ on other land. However, these sites differ from the appeal site as they are on other land to the south-west of the appeal site, within the built-up area of Middle Tysoe, and not within the green gap described above. As such they are of limited equivalence to the appeal site, and I assess the proposal on its own merits.
25. To conclude on this main issue, the proposal would erode the rural setting and identity of the village of Tysoe and harm the character and appearance of the area. As such, it would conflict with Policies CS.5, CS.9, CS.15, CS.11 and AS.10 of the CS, and Policy CE3 of the MP. Together, the policies seek, amongst other things, to ensure that development complements local character, including the surrounding landscape and setting of the settlement.

Affordable housing

26. Following the dismissal of the previous appeal⁶, the Council confirms that it is not pursuing this reason for refusal in the current appeal. As such, this is a neutral factor in my assessment.

Other Matters

27. Policy CS.16 of the CS sets out that no more than around 12% of approximately 7,000 - thus around 84 - homes should be provided in any individual Category 2 Local Service Village. It is not disputed that around 35 dwellings have been built or are committed at Tysoe, which is well below around 84 homes. Nevertheless, in stating a maximum figure per settlement,

⁴ Ref: as per Footnote 1.

⁵ Ref: 15/01174/FUL and 16/02684/FUL.

⁶ Ref: as per Footnote 1.

the policy does not necessarily mean that around 84 homes have to be provided in Tysoe.

28. I understand that the site is identified as a potential housing site in the Council's Strategic Housing Land Availability Assessment ('SHLAA'). However, whilst the SHLAA is important technical evidence to inform plan-making it does not in itself determine whether a site should be allocated, or is most suitable to meet housing needs. Taking the above together, I consider that there may well be other sites, including within the physical confines of villages, which are more suitable than this scheme.

Planning Balance and Conclusion

29. I have had regard to the benefits arising from the proposal. The provision of five extra dwellings would add to the supply of housing in the district to a modest extent. I note the Inspector's finding in The Orchards appeal⁷ - in respect of housing development supporting facilities and services in the village - and recognise that the proposed development, would result in socio-economic benefit to the local area during and after construction, including custom for businesses and facilities in the village, which are a short walk away. This may include pupils for the village school, although not necessarily in sufficient numbers to ensure its viability. There would also be financial benefits through the New Homes Bonus. As contributions to the Community Infrastructure Levy are required to mitigate the effects of development, that matter is neutral in the planning balance. Taken together, the proposal's planning benefits carry some weight.
30. I appreciate the appellant's wish to contribute to local housing delivery. However, I find that the proposal's benefits would not outweigh the totality of the identified harm that it would cause. The scheme would conflict with the development plan when considered as a whole, and having regard to all other matters raised, the appeal is therefore dismissed.

William Cooper

INSPECTOR

⁷ Ref: as per Footnote 3.