
Appeal Decision

Site visit made on 20 August 2019

by J Gibson BUEP MP

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

Decision date: 7 November 2019

Appeal Ref: APP/Q3115/W/19/3231273

10 Silver Street, Tetsworth, Thame OX9 7AR

- 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 & Mrs R Rockall against the decision of South Oxfordshire District Council.
 - The application Ref P16/S2751/O, dated 31 July 2016, was refused by notice dated 21 December 2018.
 - The development proposed is for the erection of six detached single and two-storey dwellings with access, parking and amenity space, together with additional parking for existing properties.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was made in outline, with details of layout, access and additional parking for existing properties provided. Matters of appearance, landscaping and scale have been reserved for future considerations. I have determined the appeal on that basis, and have treated the submitted plans as indicative, except insofar as they concern the details of layout, access and additional parking for existing properties.

Main Issue

3. The main issue is whether the proposed development would provide a suitable location for housing having regard to the character and appearance of the area, with particular regard for the open countryside.

Reasons

4. The appeal property forms the rear garden of 10 Silver Street and is located in the open countryside, on the outer edge of the Tetsworth village built extent. The land is cleared of most vegetation and is benefitted by a shed associated with the host dwelling of the property. The appeal property is predominantly framed by open countryside, including public rights of way, paddocks and undeveloped rear gardens, with residential development adjoining the south-eastern edge of the site and a progression of ribbon development along High Street towards the north. The South Oxfordshire Core Strategy (CS) and saved policies of the South Oxfordshire Local Plan 2011 (LP) make up the development plan which the proposal is to be determined against.

5. Under the CS Tetsworth is considered a smaller village. Policy CSR1 of the CS identifies that there are opportunities for new housing in smaller villages, where the proposal represents infill development, is on a site of up to 0.2 hectares in size and equates to approximately five to six houses. The purpose of this criteria is to ensure development is carried in accordance with the district wide spatial strategy contained within Policy CSS1. This spatial strategy identifies smaller villages as having a supporting role for larger settlements on the hierarchy, with limited opportunities for housing based on local need whilst discouraging new homes within the open countryside unless there are special circumstances.
6. It is my view that the proposal would not accord with the definition of infill development as set out within Policy CSR1. The proposal would not fill a small gap within an otherwise built-up frontage, nor does the appeal property fall within the settlement closely surrounded by existing buildings. I observed during my site visit that the appeal property both in character and appearance shared a stronger relationship with the rural landscape of the open countryside than with the built extent along Silver Street and High Street. This was largely attributed to the open characteristics of the site, which in combination with the rear garden at No 20 Silver Street formed a contiguous buffer transitioning from the open countryside to the built limits of Tetsworth village. I note the appellants' case that the neighbouring rear garden at No 20 would constitute built development which would enclose the appeal property within the settlement. However, I consider the land at No 20 to represent undeveloped rear garden, with any structures present being ancillary to this predominant character and appearance.
7. The appellants further contests that the boundary treatment of the appeal property disassociates the land from the open countryside, and on this basis would be an appropriate extension of the built form along Silver Street. However, views across the appeal property from the public rights of way exist and reinforce the value of the appeal property as a transitional buffer between the built edge of Tetsworth and the spacious characteristics of the open countryside. The proposal would unduly expand the built footprint of Tetsworth village into this buffer and harm the open countryside by interrupting the contiguous rural landscape character and appearance offered by the appeal property and neighbouring undeveloped rear gardens.
8. The appeal property also exceeds the 0.2 hectare size limit under Policy CSR1. The appellants have referenced a number of planning permissions to demonstrate that the Council has previously accepted development on sites greater than this size limit. While I do not have full details of the balance of considerations which informed these decisions, the evidence of the Council (which is not disputed by the appellants) is that none of them had circumstances directly comparable with the current proposal. For example, some involved re-development of existing buildings, and some were made at a time when the Council was unable to demonstrate a five year supply of housing land. Each development proposal must be determined on its own merits, and I do not regard these previous permissions as justification for departing from the 0.2 hectare size limit under Policy CSR1 in this current case.
9. The erection of six proposed dwellings at the appeal property would harm the character and appearance of the surrounding area, particularly the open countryside. It therefore would not comply with Policies CS1, CSS1, CSR1 and

CSEN1 of the CS, and Policies G2, G4, C4 and H4 of the LP. Collectively these policies, amongst other things, set out the settlement hierarchy for the district, details the provision of new homes in villages to support this hierarchy, and seeks to protect the landscape characteristics of the surrounding area.

Other Matters

10. The appellants' case puts forward that the South Oxfordshire CS is out-of-date and that the 'tilted balance' under Paragraph 11(d) of the National Planning Policy Framework (the Framework) is subsequently engaged. Both the appellants and the Council agree that Policy CSH1 of the CS is out-of-date as it relates to the districts housing need. The policy sets out the housing requirements of the district for the period from 2006-2026 and is based on the now revoked South East Plan. It is on this basis that the appellants contest that the housing strategy and related housing distribution policies of the CS, set out in Policies CSR1 and CSS1 respectively, are out-of-date.
11. Paragraph 11(d) of the Framework states that where "the policies which are the most important for determining the application are out-of-date", planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Footnote 7 to Paragraph 11 explains that situations in which the relevant policies will be regarded as out-of-date include those where the Council cannot demonstrate a five year supply of deliverable housing sites. The undisputed evidence of the Council is that it now meets the required three year housing land supply requirement¹, and of note the standard five year housing land supply as well.
12. On this basis, I have reviewed the relevant policies against the latest version of the Framework and am satisfied that the policies "most important for determining the application" as a whole remain up-to-date for this purpose. Taken together, Policies CSS1, CSR1 and CSH1 set out a hierarchical approach to the distribution of development within the district and do not seek the complete prevention of development in rural areas. This hierarchical approach remains valid, and consistent with national policy. Specifically, both Policies CSS1 and CSR1 provide a clear framework and criteria by which new housing can be accommodated, remaining functional and appropriate despite the housing targets stated within Policy CSH1 being out-of-date.
13. The appellants contend that recent appeal decisions support their view that the policies most important for determining their proposal are out-of-date, but have not provided references to any such decisions. The only appeal decision provided by the appellants concerns a site in Crowmarsh Gifford², but the circumstances of that case differed materially from the current case in that Crowmarsh Gifford is a "larger village" for the purposes of the CS, and it was agreed between the parties that Policy CSR1 was "silent" (in the terms of Paragraph 14 of the former version of the NPPF, applicable at that time) in relation to housing in larger villages.
14. I consider that in conjunction with policies that seek to protect the countryside from unacceptable forms of development, and notwithstanding the fact that in

¹ Written Ministerial Statement "Housing Land Supply in Oxfordshire: Written Statement – HLWS924" made 12 September 2018

² Ref APP/Q3115/W/17/3186858 dated 29 May 2018, appended as Document 9 to the Appeal Statement

numerical terms it no longer reflects the district's current housing need, Policies CSS1, CSR1 and CSH1 continue to play an important role in the distribution of development based on a hierarchical approach. Accordingly, I am satisfied that the policies "which are most important for determining the application" remain, considered as a whole, up-to-date for this purpose. I therefore conclude that the circumstances envisaged by Paragraph 11(d) of the Framework do not apply in this case, and the 'tilted balance' is not engaged.

15. The appellants' statement of case documents correspondence between the appellants and the Council discussing the events which lead to the refusal of planning permission. Although regrettable, the discussion and delays experienced through this process do not fall within the scope of the appeal. I have therefore determined the appeal on its merits.
16. The appeal property adjoins 42 High Street which is subject to a Grade II Listed Building. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. The significance of the Listed Building is derived from its traditional character and appearance and less so from its surrounding setting. The setting of the heritage asset is characterised by residential buildings and some commercial uses, of which there is a limited relationship with the existing rural character of the appeal property. I am satisfied that any views of the proposed development would not harm the value or significance of the Listed Building at No 42 having regard for its current setting.

Conclusion

17. I have found that the proposed development would harm the character and appearance of the surrounding area, and would conflict with the development plan taken as a whole accordingly. There are no other material considerations of sufficient weight to overcome this policy conflict. I therefore conclude on balance that the appeal should be dismissed.

J Gibson

INSPECTOR