
Appeal Decision

Site visit made on 25 February 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2020

Appeal Ref: APP/A3010/W/19/3239309

Land to the rear of 30 Town Street, Sutton-cum-Lound, Retford DN22 8PT

- 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 and Mrs C Summers against the decision of Bassetlaw District Council.
 - The application Ref 18/01431/OUT, dated 2 November 2018, was refused by notice dated 29 May 2019.
 - The development proposed is described on the application form as 'residential development (for 5no. dwellings)'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is for outline planning permission, with all matters except for access reserved for future consideration. An indicative site layout is submitted with the application and I have taken this into account only in so far as determining the acceptability, in land use principle terms, of erecting five dwellings on the site.
3. The Council advise they no longer wish to defend the second reason for refusal in respect of highway safety concerns due to the fact that the Highways Authority raised no objection to the proposal as a footpath along the front of the appeal site could have been secured by the imposition of an appropriate planning condition. I see no reason to disagree with the opinion of the Highway Authority and based on the evidence before me this footpath could have been incorporated into the appeal scheme. As a result, I consider that the proposal would not cause unacceptable harm to highway safety.

Main Issue

4. In the context of the above, the main issue is whether the proposal amounts to an acceptable form of infill development having regard to the development plan for the area and, if not, whether there are other material considerations which outweigh any identified conflict with the development plan for the area when considered as a whole.

Reasons

5. The appeal site comprises a large open area of grassland to the rear of no. 30 Town Street which is centrally situated within the village of Sutton-cum-Lound.

The surrounding area is predominately residential with the site also being bounded by the local village hall and a recreation ground. On its other sides the appeal site is bounded by dwellings consisting of a mixture of types and sizes. The proposal would provide five new detached dwellings served by a new access adjacent to no. 30 Town Street.

6. Policy CS1 of the Bassetlaw Local Development Framework Core Strategy & Development Management Policies DPD (adopted December 2011) (BCS) identifies Sutton-cum-Lound as a 'Rural Service Centre' (RSC). The RSC also has a defined settlement boundary within which development is permitted by Policy CS8 of the BCS if it sustains employment, community services and facilities and is of an appropriate scale in relation to the current size and role of the settlement. Policy CS8 also states that housing will be supported within RSCs on allocated sites or other sites within their development boundaries in line with other material considerations and policy requirements.
7. The appeal site is located within the settlement boundary for the Sutton-cum-Lound RSC. The supporting text to Policy 6 of the Sutton-cum-Lound Neighbourhood Development Plan (made 15 February 2018) (SCLNP) recognises that sites within the village would potentially come forward for residential development stating that *'limited infill and redevelopment would be acceptable provided that it preserved the village's character'* and defines 'limited' infill development as the completion of an *'otherwise substantially built-up frontage by the filling of a small gap normally capable of taking one or two dwellings only'*. Policy 6 itself supports development on infill and redevelopment sites within the village provided they meet several criteria and particularly supports the provision of smaller dwellings.
8. In support of the proposal, the appellant has submitted evidence arguing that as the supporting text includes a definition of 'limited' infill development whilst the Policy itself does not, that the outcome of the Cherkley case¹ applies meaning that the implementation of the Policy should relate to infill development rather than 'limited' infill as defined by the supporting text. However, while this may well be the case this does not necessarily mean that the proposal would constitute infill development. As stated in the Tate case² whether a proposal constitutes 'limited' or 'infill' development is a question of fact and planning judgement for the decision-maker having regard to *'the nature and size of the development itself, the location of the application site and its relationship to other, existing development adjoining it, and adjacent to it'*.
9. I consider that infill development is normally associated with the completion of an otherwise substantial built up frontage of several buildings or at the very least, the consolidation of a largely built up area. Notwithstanding the fact that the area around the appeal site is predominately residential, there is a substantial gap between no. 38 Town Street (the Village Hall) and no. 36 Town Street consisting of the recreation ground (and an associated more open grassed area). There is also another large gap between nos. 36 and 30 Town Street and these gaps would remain once the proposal had been completed.
10. Consequently, I do not consider the appeal site to be surrounded by dwellings as the appellant has asserted. Furthermore, as the proposal is located behind

¹ R (o.a.o. Cherkley Campaign Ltd) vs Mole Valley DC [2014] 2 EGLR 98

² R (Tate) v Northumberland County Council [2018] EWCA Civ 1519

these dwellings (and their back gardens) I consider that it would constitute 'backland' development. Therefore, the proposal would not result in the completion of an otherwise substantial built-up frontage of several buildings. Furthermore, as it is a greenfield site, I also find that the proposal would not constitute 'redevelopment'. Accordingly, I conclude that the proposal conflicts with Policy 6 of the SCLNP which aims to support appropriate residential development on infill and redevelopment sites within the village.

11. I note the appellant's point that great weight should be attributed to the effective use of land and bringing forward suitable housing windfall sites as per paragraphs 68, 117 and 118 of the National Planning Policy Framework (the Framework). However, these policies aim to provide such housing to meet a clearly identified need or shortfall particularly on under-utilised brownfield land. As the local planning authority (LPA) can demonstrate a deliverable five-year supply of housing sites and the appeal site is greenfield, the aforementioned paragraphs are not fully applicable in this case.
12. The proposed development is in outline with all matters reserved. However, the appellant has indicated that the scheme could provide up to 5 dwellings. Paragraph 78 of the Framework promotes sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. In relation to economic and community benefits, while I acknowledge that the proposed housing would provide a limited boost to the local economy and businesses which would help to sustain services within the village, given the scale of the proposal I consider that these benefits would be modest and would not be of sufficient weight to outweigh the significant policy conflict with the SCLNP.
13. I also note the appellant's point that the proposal would accord with Policies CS1 and CS8 of the BCS. However, the appeal site has not been allocated for housing by the SCLNP and would be contrary to the aim of Policy 6 which is to only support proposals where they would be either infill development or redevelopment of which the appeal scheme is neither. Moreover, the SCLNP is the most up-to-date statutory development plan for the area and as a result I have attributed significant weight to the identified conflict with it.

Other Matters

14. The appellant has argued that the presumption in favour of sustainable development is applicable in this case as they assert that the proposal complies with an up-to-date development plan. However, as set out above, the proposal would not comply with the most up-to-date development plan for the area. In any event, as the LPA can currently demonstrate a deliverable five-year supply of housing sites, paragraph 11 (d) of the Framework is not engaged.
15. The appellant has also cited the previous appeal decision (Appeal Ref APP/A3010/W/18/3192866) commenting that it means that the Inspector accepted the principle of infill residential development on the appeal site. However, the circumstances in this case are not exactly the same as the previous appeal decision was made prior to the Tate judgement which clarified the criteria to be used when assessing whether or not a proposal constituted 'infill' development (limited or otherwise) and when the LPA could not at that time demonstrate a deliverable five-year housing land supply.

16. Another two appeal decisions have also been cited by the appellant in support of the appeal proposal. However, again their circumstances are not exactly the same, with the first appeal (Appeal Ref APP/A3010/W/17/3182489) being allowed as the LPA could not demonstrate a deliverable five-year housing land supply, meaning that the presumption in favour of sustainable development was applicable at that time, and the second appeal (Appeal Ref APP/P1425/W/15/3119171) being allowed due to the absence of an up-to-date development plan for the relevant plan area and meaning that the presumption in favour of sustainable development was also applied in that case.
17. None of the other matters raised alter or outweigh my conclusion on the main issue.

Conclusion

18. The proposed development would be contrary to the development plan for the area when considered as a whole. There are no material considerations indicating a decision otherwise than in accordance with it. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

C Coyne

INSPECTOR