



Appeal Decision

Site visit made on 5 November 2019

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2020

Appeal Ref: APP/P0119/W/19/3235733

Elfin Cottage, Iron Hogg Lane, Falfield GL12 8DU

- 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 Mr & Mrs C Selwyn-Shore against the decision of South Gloucestershire Council.
 - The application Ref PT18/1246/F, dated 28 February 2018, was refused by notice dated 1 April 2019.
 - The development proposed is Erection of new dwelling and formation of new vehicular access with associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Whilst the Council's reason for refusal indicates the impact of the proposal on the character and appearance of the area, on the basis of the evidence before me this doesn't appear to be in dispute between the parties. Accordingly, I consider the main issues in this case to be as set out below.

Main Issues

3. The main issues are:
 - (i) whether the proposed development would be a suitable location for housing having regard to the development plan and any relevant national policies; and
 - (ii) the effect of the proposed development on the living conditions of existing occupiers with regard to outlook and future occupiers with regard to amenity space and outlook.

Reasons

Suitable location for housing

4. The appeal site is located within a small hamlet of properties off Iron Hogg Lane which is located off the A38 main distributor road. There is a dispersed settlement pattern of sporadic pockets of dwellings along this main road with the site lying approximately 1.3 miles away from the settlement boundary of the nearest defined settlement of Thornbury.
5. Policy CS5 of the South Gloucestershire Local Plan: Core Strategy (2013) (Core Strategy) identifies that at Thornbury new development will be of a scale

appropriate to revitalise the town centre and strengthen community services and facilities. The appeal site lies a considerable distance outside the defined settlement boundary as defined by Policy CS5 and lies in the open countryside whereby in line with the policy development should be strictly limited. Policy CS5 (c) recognises that outside the greenbelt in villages and settlements without defined settlement boundaries, development will be strictly controlled but small-scale development within or well related to villages or settlements may come forward through neighbourhood planning initiatives or rural exception policy. Policy CS34 of the Core Strategy seeks to protect the distinctive character of rural areas, with the supporting text to this policy reiterating that development in the open countryside will be strictly controlled.

6. Policy PSP40 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (2017) (PSP Plan) sets out the circumstances where development outside settlement boundaries would be acceptable. The proposal does not meet any of these identified circumstances. However, the supporting text to the policy states that where a five-year housing land supply (5-year HLS) cannot be demonstrated then Policy CS5 in so far as it relates to the supply of housing will be considered out of date. Furthermore, in such circumstances where proposals are contrary to Policy PSP40, applications will be assessed in line with all relevant development plan policies and the National Planning Policy Framework (the Framework).
7. Whilst the nearest bus stop to Thornbury is within a reasonable walking distance from the site on Gloucester Road and is frequently serviced, this would require occupiers of the proposed dwelling to cross the busy A38 where there is no safe crossing point. Similarly, there is no safe route to encourage walking into Thornbury given the need to cross the A38 and the lack of a continuous footway along Gloucester Road. I acknowledge there is another bus stop along the A38 again within a reasonable walking distance which occupiers could access via an existing footpath. However, whilst this would be sufficient for the outbound journey occupiers would still need to cross the A38 on their return journey. Thus, I do not consider this presents a safe and convenient option to access public transport nor to encourage walking to Thornbury. Given the above factors, the site is not well related to Thornbury and I consider occupiers of the proposed dwelling would be largely reliant on use of the private car to access services.
8. Similarly, the site lies a considerable distance outside the village centre of Falfield. However, there is a footpath along the A38 that would allow access to Falfield which contains some local services including a local shop and public house. However, these are situated well outside the recommended walking distances provided by PSP Plan Policy PSP11. Whilst I acknowledge the appellants' point that people are seen walking along this footway, given the distances I consider occupiers will be largely reliant on use of the private car to access services such as the village shop. This will be heightened during the winter and periods of inclement weather. Taking the above matters into consideration, the proposal would create a new dwelling in a location away from any defined settlement containing day-to day services and facilities. Consequently, its occupants would be heavily reliant on use of private motorised transport in light of the absence of easily accessible and convenient sustainable alternatives. Although journeys would likely be of short duration and infrequent it wouldn't accord with the need to promote sustainable travel.

9. Notwithstanding the above, the site lies within the open countryside and well outside a defined settlement boundary and would not satisfy the exceptions for housing development outside settlement boundaries. It would thus conflict with the locational and spatial strategy of the development plan and the aims to limit development in the open countryside. I therefore conclude that the proposed development would conflict with Policies CS5 and CS34 of the Core Strategy and Policy PSP40 of the PSP Plan.

Living Conditions of existing and future occupiers

10. The proposed dwelling would be sited in close proximity to the boundary of Laurel Cottage and approximately 15.8m from the rear of the property. Whilst acknowledging this, there would be no windows in the rear elevation resulting in any overlooking of Laurel Cottage. Furthermore, there is considerable screening with existing vegetation along the boundary of this property. This to my mind would mitigate the impact of the proposed dwelling. In addition, the sloping roof away from the boundary would reduce any perceived effect of overbearing on the occupiers of Laurel Cottage. On this basis I do not find the proposal would result in harm to the living conditions of the occupiers of this property.
11. However, the proposed dwelling would be in very close proximity to the existing Elfin Cottage. Whilst I acknowledge the proposed cottage has been sited to reduce direct overlooking, given the very close distance between the dwellings, in particular the proposed living room window of the proposed cottage to the closest habitable windows of Elfin Cottage, I find this close relationship will appear overbearing for both existing and future occupiers detrimentally affecting the outlook from the respective properties.
12. The proposed dwelling meets the minimum area of amenity space required by PSP Plan Policy PSP43. The amenity space provides for an outdoor seating area to the side of the property. Whilst small, considering the nature of the 2-bedroom property I consider it to be functional and safe for the proposed occupiers. The amenity area will also be south facing so will benefit from sunlight. Whilst there will be overlooking of the amenity space from nearby two storey properties, this is not uncommon in a residential area. Whilst the space is small compared to the amenity spaces of surrounding properties, I do not consider this to detrimentally effect the character of the area.
13. Therefore, whilst I have not found harm with the proposed amenity space nor conflict with Policy PSP43, given the above, I conclude that the proposal will result in harm to the living conditions of existing and future occupiers in respect of outlook. Accordingly, the proposal would be in conflict with Policies PSP8 and PSP38 of the PSP Plan. Amongst other matters, these policies seek that development should not create unacceptable living conditions or have an unacceptable impact on the amenity of occupiers of the development or nearby properties.

Housing Land Supply

14. The Council consider they can demonstrate a 5-Year HLS which based on the submitted evidence is between 6.26 and 6.28 years. This has been calculated against their Local Housing Need given the Core Strategy Policies are more than 5 years old, which is consistent with Paragraph 73 of the Framework.

15. Whilst I acknowledge the appellants' point that the Council could not demonstrate a 5-year HLS at the time the application was made, it is the position at the time of determination that should inform decision making. The appellants' have not offered an alternative 5-year HLS figure within their evidence. However, they refer to an appeal decision by Bovis Homes¹ whereby they indicate the Council failed to convince the Inspector of their 6.21-year HLS, but the Inspector did conclude the Council could demonstrate a 5-year HLS albeit the surplus was marginal. However, I do not have a copy of this decision and it is not clear whether the Councils latest evidence supersedes this decision. Thus, on the basis of the absence of any alternative evidence from the appellants', I find the Council can demonstrate a 5-year HLS.
16. However, the appellants' argue that even if the Council can demonstrate a 5-Year HLS they consider that due to the fact the Council are relying on Local Housing Need to calculate their HLS and have commenced a new Local Plan this must mean the Core Strategy is out of date. Thus, they consider the most important policies for determining the application are out of date and thus paragraph 11 d) of the Framework should be engaged. The appellants' are also of the view that even if the policies are not considered out of date the weight attached to them should be reduced as they relate to a plan that is subject to review including the locational strategy and development boundaries.
17. In line with Paragraph 33 of the Framework local planning authorities should review policies in local plans at least once every five years. Thus, the Council is statutory bound to undertake this review, and this does not automatically make the policies out of date. The most relevant policies for determination of this appeal relating to the supply of housing are Core Strategy Policies CS5 and CS34 and PSP Plan Policy PSP40. Given the healthy HLS position the policies are clearly not restrictive in the delivery of housing and lead me to conclude they are operating effectively. On review of the policies I consider them to be consistent with the aims of the Framework to boost the supply of housing. The policies also support small scale development in certain circumstances and thus are consistent with the aims of Paragraph 68 of the Framework. Therefore, I find the most important policies for determination of this appeal up to date and full weight should be attached to them. I therefore conclude that Paragraph 11 d) of the Framework is not engaged.
18. I acknowledge the proposal would provide one additional dwelling to the housing stock and whilst this would make little difference to the overall housing land supply figure it is a benefit of the proposal. However, whilst accepting that a 5-year supply is a minimum figure, given the Council can demonstrate a healthy 5-year land supply, there are no overriding reasons before me that justify undermining the development strategy and departing from the adopted development plan. In any event, given the harm I have found to the living conditions of the existing and future occupiers this would outweigh the minor benefits of one additional dwelling to the housing stock. In this regard I acknowledge the aims of Paragraph 127 of the Framework which seeks development should create places with a high standard of amenity for existing and future users.
19. Taking the above matters into consideration I find the proposal would not be a suitable location for housing and would harm the living conditions of existing

¹ APP/P0119/W/17/3189592

and future occupiers for the reasons given above and thus would be contrary to the development plan and the provisions of Policy CS4a of the Core Strategy.

Other Matters

20. I acknowledge that land to the south of the appeal site is identified as one of five proposed Strategic Development Locations in the emerging West of England Joint Spatial plan, however given its emerging status this carries limited weight in my decision.
21. I have considered the planning permission for a new dwelling² to the west of the appeal site, on land known as the Pheasant referred to be the appellants. Whilst acknowledging the Council's views on this scheme, for the reasons outlined in this decision I am not persuaded the location of the site offers safe and convenient alternatives to the private car to access day to day services in Thornbury. In any event I do not have the full details of this case before me and do not know the planning circumstances on which the decision was made. I confirm that I have in any event determined this appeal on its own merits and on the basis of the evidence before me.
22. The appellants' have referred to a planning permission³ in the area which they cite as relevant to this appeal given the approach taken with respect of window to window distances. Whilst I have been provided with a photograph and plan, I do not have the full details of the case, but I consider the relationship between the buildings is different to that before me. In any event, each case is assessed on its own merits and I do not consider this relevant to this appeal.
23. I recognise it is the appellants' intention that the proposed bungalow will allow them to downsize and to remain in the area. However, this personal need is outweighed by the conflict I have found with the locational strategy of the development plan, and harm to living conditions of existing and future occupiers.

Conclusion

24. For the reasons identified above, the appeal is dismissed.

S Thomas

INSPECTOR

² PT16/6941/F

³ PT16/6724/F