
Appeal Decision

Site visit made on 19 May 2020

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2020

Appeal Ref: APP/J3720/W/20/3245180

The Orchards, Lower Tysoe Road, Lower Tysoe CV35 0BN

- 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 Steve & Mrs Elizabeth Jones against the decision of Stratford on Avon District Council.
 - The application Ref 19/02848/OUT, dated 7 October 2019, was refused by notice dated 20 December 2019.
 - The development proposed is "outline application for one self-build dwelling in existing garden".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form states that outline planning permission is applied for with all matters of detail reserved for future consideration apart from access, which comprises of sharing the existing access serving The Orchards. I have determined the appeal on this basis, treating the submitted site plan as illustrative only, insofar as it indicates a possible layout.

Main Issues

3. The main issues in consideration are (i) whether this is an appropriate site location for housing, and (ii) the effect of the development on the character of the local landscape and setting.

Reasons

Appropriateness of the site for housing

4. Lower Tysoe is both significantly smaller and physically separate from Middle and Upper Tysoe. It is a rural location featuring a limited number of residential properties.
 5. Policies CS.15 and CS.16 of the Stratford-on-Avon District Core Strategy (CS) refer to a hierarchy of settlements to ensure the efficient and effective use of resources, to sustain existing settlements and reduce reliance on the private motor vehicle for transportation.
 6. Policy AS.10 of the CS applies to all parts of the District apart from those which lie within the Built-Up Areas Boundaries (BUABs). It seeks development
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proposals to be assessed against the principles of sustainable development, including the need to: minimise impact on the character of the local landscape; environmental features; make provision for sustainable forms of transport wherever appropriate; and prioritise the re-use of brownfield land and existing buildings. Part (b) of the policy supports small-scale housing schemes, including the redevelopment of buildings within the BUAB of a Local Service Village, or otherwise within the physical confines, in accordance with the requirements of policies CS.15 and CS.16. The supporting text to Policy AS.10 highlights the boundaries for rural settlements will be defined in a Site Allocations Development Plan Document.

7. Considering the separation evident from Middle and Upper Tysoe I agree that the site is beyond the 'physical confines' of a Local Service Village in AS.10 (b) terms. The site is not specifically identified and supported through an adopted Neighbourhood Plan or Site Allocations Plan Document. This is because the Council's draft Site Allocations Plan (SAP) is yet to be formally adopted, which sets out the BUAB and because the application site falls outside of that boundary. The site is also beyond a different BUAB identified within the Tysoe Neighbourhood Plan (NP), now subject to change.
8. A key aspect of assessing the appropriateness of the location against the CS includes acknowledging whether the land is 'brownfield' or previously developed. This is because the term 'previously developed land' as defined by the glossary of the Framework includes private residential gardens in an area that is not built up¹. The description of the development given by the appellant on the planning application form asserting the site is "front garden" is disputed by the Council. At my site visit I saw that the front elevation of The Orchards faces the land. The site is large consisting of mown grass, interspersed with trees and lined by mature hedgerow around the periphery. A small intervening stream cuts through it close to The Orchards and I accept the Council's record of a footpath running in a similar direction to the stream across the site from Lower Tysoe Road.
9. It is not for me under a section 78 appeal to determine if the land is garden. To that end the appellant has sought a determination for lawfulness under s192/192 of the Act outside of this appeal. Based on my observations and the evidence before me I am unconvinced, for the purposes of applying policies AS.10 and CS.15 the site can be deemed as 'brownfield'. The lack of evidence and Council record indicating historical paddock use counts significantly against the proposal for it runs contrary to one of the important aims of the CS which seeks to prioritise the re-use of brownfield sites within sustainable locations making the efficient use of resources.
10. I appreciate the appellant refers to appeal APP/J3720/W/18/3213626 but this involved developing The Orchards rear garden and therefore my findings do not conflict with that decision.
11. The record of the footpath running through the site suggests access routes to larger settlements is possible through connectivity to a wider network of footpaths. I also note there is a bus service in operation in Tysoe and that the site is within short walking distance of local facilities found in the larger settlements by walking along the roadside pavement or cycling. Therefore, I

¹ Dartford Borough Council v Secretary of State for Communities and Local Government & Anor [2017] EWCA Civ 141

agree alternative modes of transportation other than by private motor car would be feasible options in line with the CS. However, it does not outweigh my earlier concern regarding the effective use of land and resources.

12. The appellants suggest the development would be a 'self-build' dwelling for their own occupation. I acknowledge Policy CS.16 and Part J of the Council's Development Requirements SPD supports self-build projects. It is unclear from the information provided if there is a locally identified need for self-build plots within this part of the district or how the development would be secured as such, therefore I attribute limited weight to that as a substantive benefit. Moreover, suggestions that the proposal is alleviating a current housing shortfall are not supported with any convincing evidence and do not override my concern in relation to conflict with the development plan aim for encouraging the efficient and effective use of land.
13. I conclude the site location would not be appropriate for residential development. It conflicts with Policies AS.10 and CS.15 and CS.16 of the CS. These policies collectively set out the housing strategy which seek to encourage development in the most sustainable locations prioritising brownfield sites.

Local character

14. Lower Tysoe is a very small and loosely structured settlement within a largely undeveloped rural setting. It is the loosely structured qualities of Lower Tysoe dominated by large areas of open greenery lined by hedgerow which are the prevailing attractive elements of the character of the area. I also note the site is outside of but immediately adjacent to a designated Area of Outstanding Natural Beauty (AONB).
15. I have already noted that Lower Tysoe is both distinctively smaller and physically separate from Middle and Upper Tysoe, which has a different character and appearance. The limited number of dwellings in the vicinity of The Orchard, on the opposite side of Lower Tysoe Road, have a predominantly linear form with front elevations facing the highway. Properties further afield are set back to a greater extent from the roadside.
16. The openness of the site makes a significant contribution to the prevailing attractive verdant open qualities of the local landscape. Notwithstanding the outline nature of the proposed development I have no reason to conclude that a single dwelling could not be designed to complement the rustic appearance of other properties in the vicinity. However, a new dwelling constructed on the site would lead to significant visual intrusion into what is primarily an open and verdant landscape context north of The Orchards, which is a significant component of the character of the locality.
17. Reducing the sites open qualities would lead to a noticeably greater coalescence of residential dwellings than presently exists and significantly alter the current dispersed characteristics of residential properties evident at the road junction to the north of the site. In doing so it would result in a detrimental effect to open and verdant landscape context which is a significant component of the character of the area.
18. I therefore conclude that the development of the land would be harmful to the local landscape character and setting. Thus, the development is in conflict with the strategic objective of Policy CS.9 and CS.5 of the CS which requires,

amongst other things, that the character and quality of local distinctiveness of the district is reinforced by ensuring new development takes into account the intrinsic and special value of its landscapes and townscapes.

Other matters

19. The appellant suggests that the Council has been inconsistent in its approach in relation to allowing new housing, referring to several decisions in the vicinity but those examples range over considerable period with different site-specific circumstances. Moreover, appeal reference APP/J3720/W/18/3212293 concerns a site with different visual impacts as does APP/J3720/W/18/3213626. Even if I had found the CS aim of the efficient use of brownfield land not to be problematic, I would still find the level of visual harm evident to be unacceptable. In any event, I have judged the appeal proposal on its own merits and the evidence before me.
20. Other possible benefits suggested by the appellants include supporting local village services including the school, the contribution towards 'New Homes Bonus' locally, encouraging spending in the local economy both during and after construction but all those points are commensurate to the scale of the development applied for as a single dwelling and do not outweigh the harm I have identified.

Conclusion

21. For the reasons given above I dismiss the appeal.

M Shrigley

INSPECTOR