



Appeal Decision

Site visit made on 23 June 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2020

Appeal Ref: APP/F1610/W/20/3247241
Fosse Farm, Beechpike, Elkstone GL53 9PL

- 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 Mrs Jane and Mr Alistair Whitaker and Strang against the decision of Cotswold District Council.
 - The application Ref 19/02900/FUL, dated 3 August 2019, was refused by notice dated 9 January 2020.
 - The development proposed is to build a three bedroomed traditional Cotswold house with parking in a sustainable location, utilising the existing access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development on the appeal forms and decision notice reads as 'erection of dwelling with parking'. This more accurately describes the proposal and omits phrases that potentially address the merits of the case, which should not be in the description of development. I have dealt with the appeal on this basis.

Main Issue

3. The main issue is whether Beechpike constitutes a non-principal settlement and consequently whether the site represents an acceptable location for a new dwelling comprising open market housing.

Reasons

4. The site is located on land associated with Fosse Farm, which is part of a linear group of buildings that are mostly residential in use and together comprise an area known as Beechpike. The road adjacent to Beechpike was formerly the main A417. However, the A417 has since been upgraded and now bypasses Beechpike, whereas the old A417 has been turned into a no-through road. Beechpike has therefore experienced a reduction in accessibility and through-traffic activity.
5. Elkstone and Winstone are located to the north and south of the site respectively and are two of the larger settlements in the region offering facilities such as shops and places of worship, among other things. There are also facilities distributed at various locations elsewhere in the region, including a shop at Centurion Services, a bus stop at Combend and a public house at the Highwayman Inn.

6. Cirencester has a comprehensive set of facilities on offer but is located on the periphery of the region. Beechpike does not benefit from any of its own facilities and residents are entirely reliant on travelling outside of the immediate area for their basic every day needs.
7. The proposal is for a dwelling comprising open market housing within Beechpike, which the appellants contend is a non-principal settlement. Cotswold District Local Plan 2018 (CDLP) defines non-principal settlements as any stand-alone settlement that is not listed in Policy DS1. Beechpike is not listed in Policy DS1, and therefore Policy DS3, which applies to small scale residential development in non-principal settlements, would seem applicable at first glance. However, the Council contends Beechpike should not be regarded as a non-principal settlement because it lacks reasonable access to facilities.
8. Both parties have cited a Court of Appeal judgement¹ which states that a settlement would not necessarily exclude a hamlet or a cluster of dwellings, but that whether a group of dwellings constitutes a settlement for the purposes of policy is a matter of fact and planning judgement for the decision maker. The intent of Policy DS3 is therefore important in determining whether Beechpike is a non-principal settlement for the purposes of the policy. Paragraph 6.3.4 of the CDLP in particular helps establish the purposes of Policy DS3, stating that some rural settlements have greater sustainability credentials than others, and that the availability of everyday facilities is important in reducing unnecessary traffic movements. Accordingly, the policy applies to those rural settlements that have reasonable and safe access to facilities, either within the settlement itself or neighbouring settlements, to reduce unnecessary traffic movements.
9. The appellants contend that Beechpike is a settlement (a hamlet) and that the Council has stated the same when dealing with a different application on another site in the area. Even if it is to be factually regarded as a settlement, this alone does not mean it is captured by Policy DS3. As already explained, the intent and purposes of the policy rests on the settlement's reasonable access to facilities and associated sustainability credentials. The appellants refer to the National Planning Policy Framework (the Framework) and Paragraph 79 regarding isolated dwellings. Similar to the above on the relevance of the definition of settlement, the question is not whether the proposal would be an isolated dwelling but whether Beechpike is a non-principal settlement for the purposes of applying Policy DS3.
10. Residents of Beechpike would be required to travel outside of their immediate area to the neighbouring settlements of Elkstone and Winstone and other locations in the region for all of their basic every day needs. Although the appellants contend otherwise, no cogent or empirical evidence has been submitted to demonstrate that facilities in Elkstone, Winstone and other locations mentioned in evidence are reasonably accessible by walking or cycling and that residents of Beechpike would be less inclined to journey by private car. For example, the appellants acknowledge that at least some of the routes proposed are not served by designated footpaths or cycle ways and require shared use of a highway with vehicular traffic. It is not clear whether these highways are well lit or otherwise safe for pedestrian use, or indeed engender a sense of safety that would encourage residents to use them over and above their private cars.

¹ Braintree District Council v SSCLG & Ors [2018] EWHC Civ 610

11. It is noted that there is a bus service at certain locations in the region but there is no evidence establishing that the service frequency is comparable in convenience to that of the private car. Neither has it been sufficiently evidenced that bus stops are safe and accessible for pedestrians and cyclists (for similar reasons previously mentioned relating to shared highways) and that residents would be more inclined to use the bus network as their primary mode of transit, over and above their private cars.
12. For example, Combend is relatively close to Beechpike but it is unclear if bus services run consistently through Monday to Friday and whether it is a viable primary mode of transit for residents. Even then it would lack services on weekends, undermining its viability. The bus service from Winstone appears more robust and creates links with Cirencester's comprehensive offer of facilities, but this is further away from Beechpike and is not served by a dedicated footpath or cycle way for the entirety of the route. Consequently, it is unclear whether the route is safe, or feels safe for pedestrian and cyclists, and whether it is a viable route for accessing Winstone's bus service.
13. Beechpike does not appear to enjoy reasonable access to a singular location with a comprehensive set of facilities. Accordingly, the presumption is that residents of Beechpike would need to make multiple linked trips to several destinations in order to completely fulfil their needs. This would extend the travel distances required and increase the likelihood that residents would use their private car instead of walking or cycling.
14. Altogether, it becomes increasingly more likely than not that these aforementioned factors would lead to additional private car journeys and unnecessary traffic movements. Such movements are not a characteristic of non-principal settlements and would suggest facilities are not reasonably close by for the purposes of Policy DS3 and that Beechpike lacks at least some of the sustainability credentials necessary to be regarded as a non-principal settlement.
15. Broadband speed may well allow residents of Beechpike to work from home and reduce the need to travel for employment purposes. However, this is only one type of trip amongst many others that residents would need to undertake during any given period of time. The appellants note the Council's statement that Elkstone is a non-principal settlement. Be that as it may, in carefully assessing whether Beechpike is a non-principal settlement, I have not come to the same conclusion. The appellants proceed in their evidence to assess the proposal against the criteria of Policy DS3 and the Council has not disputed the proposal's acceptability in this context, nor is there any evidence in front of me to take an alternative view. However, for the reasons already explained, this does not mean that the proposal falls within the purposes of Policy DS3.
16. After considering the purposes of Policy DS1 and Policy DS3 in logical sequence and by process of elimination, it has been found that Beechpike should not be regarded as a non-principal settlement and should fall to be assessed under Policy DS4. This policy does not permit open market housing outside principal and non-principal settlements, except for affordable housing on rural exception sites, housing for rural workers, sites for gypsies and travellers and conversion of rural buildings. The proposal is for a dwelling comprising new open market housing and does not constitute an exception and is therefore in conflict with Policy DS4.

Other Matters

17. The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB). Consideration has been given to Section 85 of the Countryside and Rights of Way Act 2000 and the statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The proposal would deliver a dwelling that is in keeping with the character and appearance of adjacent buildings. It would be of comparable scale at two storeys in height, be sited to maintain historic patterns of development and spacing with that of other buildings on the street whilst also using materials sympathetic and representative of the area. Consequently, the dwelling would assimilate into the neighbouring built form and be inconspicuous in the wider rural landscape setting, conserving the natural beauty of the AONB.
18. The site is located adjacent to the Old Bakehouse, which is a Grade II listed building. Special attention has been given to Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and the statutory duty and desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The proposal would maintain the largely residential context and historic pattern of development in the area, with sufficient spacing between buildings. Consequently, the residential context and spacious rural setting of the listed building would be preserved.
19. It is acknowledged that the proposal could represent a windfall contribution to the area's housing land supply. However, given that the Council can demonstrate a housing land supply substantially above 5 years, it is considered that any windfall contribution provided by the proposal would only have limited benefit. This limited benefit would not outweigh my findings on the main issue.
20. The support from an interested party which together with an absence of objection, do not in themselves mean that the proposal is acceptable. The appeal has been determined based on the development plan, material considerations and the evidence presented.

Conclusion

21. The windfall contribution to the area's housing land supply provides only limited benefit and does not outweigh the harm arising from the development of a dwelling comprising new open market housing outside of a non-principal settlement. For the reasons given, the appeal is therefore dismissed.

Liam Page

INSPECTOR