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# Appeal Decision

Site visit made on 13 October 2020

**by S Leonard BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 October 2020**

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**Appeal Ref: APP/H1705/W/20/3256370**

**Land at Oxleas House, Ox Drove, Burghclere RG20 9HH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr and Mrs S Carter against the decision of Basingstoke & Deane Borough Council.
  - The application Ref 20/00191/PIP, dated 22 January 2020, was refused by notice dated 10 June 2020.
  - The development proposed is residential development of 1 no. dwelling.
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## Decision

1. The appeal is allowed and permission in principle is granted for residential development of 1 no. dwelling on land at Oxleas House, Ox Drove, Burghclere RG20 9HH, in accordance with the terms of the application Ref. 20/00191/PIP, dated 22 January 2020.

## Background

2. The appeal proposal is for a Permission in Principle (PIP). In accordance with the Planning Practice Guidance (the Guidance) and the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (the Order), this is an alternative way of obtaining planning permission for housing-led development, which separates the consideration of matters of principle for the proposed development (first stage) from the technical detail (second stage).
3. Paragraph 012 of the Guidance states that the scope of a PIP application is limited to location, land-use and the amount of development, and that other matters should be considered at the technical details consent stage<sup>1</sup>. It confirms that local authorities cannot list the information they require for applications for permission in principle in the same way they can for applications for planning permission.
4. The Guidance also confirms that, following a grant of a PIP, the site must receive a grant of Technical Details Consent (TDC) before development can proceed, and that other statutory requirements may apply at this stage, such as those relating to protected species or listed buildings<sup>2</sup>.
5. For the avoidance of doubt, the appeal proposal is at the first stage. In respect of residential development, an applicant can apply for a PIP for a range of dwellings by expressing a minimum and maximum net number of dwellings as

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<sup>1</sup> Paragraph: 012 Reference ID: 58-012-20180615 Revision date: 15 06 2018

<sup>2</sup> Paragraph: 003 Reference ID: 58-003-20190615 Revision date: 15 06 2018

part of the application. In this instance, permission in principle has been sought for a single dwelling on the appeal site. I have determined the appeal on that basis, having regard to the requirements of the above referenced Order and the Guidance.

## **Main Issues**

6. The main issues are:

- whether the proposal would comply with development plan policy in respect of housing in the countryside; and
- whether any policy conflict in relation to the above issue would be outweighed by other material considerations, such as to justify a decision other than in accordance with the development plan.

## **Reasons**

### *Development plan policy*

7. The appeal site comprises a roughly rectangular-shaped grassed paddock. It is sited beside the crossroads of Ox Drove and Well Street, within open countryside. It lies to the north of, and outside of the designated Settlement Policy Boundary (SPB) of, Burghclere village. It has frontages onto both roads which are bounded by mature landscaping and trees. There are several other dwellings located close to the road junction, including Oxleas House to the side of the appeal site. To the north of Ox Drove are several dwellings and Heatherwold Stud. In Well Street, Grade II Listed dwellings known as The Ox Drove House and The Malthouse face the appeal site. To the south of the site are open fields. There are access points onto Well Street, an adjacent field and Ox Drove. The latter is via a shared access with Oxleas House.
8. The first step in considering the appeal scheme is the development plan, which comprises the *Basingstoke and Deane Local Plan 2011 – 2029* (BDLP). Section 38(6) of the Act sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has confirmed that the site lies outside of any designated SPB and is therefore considered to be in the countryside for the purposes of BDLP Policy SS1. This policy sets out a spatial strategy for the location of new housing. As a general rule, it directs new housing to within the designated SPBs and allocated sites, and restricts new residential development in the countryside unless it accords with criteria contained with BDLP Policy SS6, under which new housing in the countryside would be appropriate.
9. Given the scale and nature of the appeal scheme, and the characteristics of the appeal site, criterion e) of Policy SS6, which relates to small-scale market housing, is most relevant to the proposal. However, in order to be appropriate, such housing would need to be of a scale and type that would meet a locally agreed need as detailed in the Council's published guidance. I have no cogent evidence before me that such a locally agreed need has been satisfactorily demonstrated. As such, I find that the scheme would be contrary to Policies SS1 and SS6 of the BDLP in respect of housing in countryside.
10. The emerging *Burghclere Parish Neighbourhood Plan: Submission Plan – November 2019* (BPNP) has reached a very advanced stage of production. The Council has published a Decision Statement confirming the intention to proceed

to referendum. Following receipt of the examiner report in March 2020, the referendum was intended to take place on 12 May 2020. However, this has been delayed until at least 6 May 2021 due to the on-going COVID-19 situation, having regard to the Local Government and Policy and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulation 2020.

11. The appeal site lies outside the designated Burghclere SPB according to BPNP Policy B1, which directs new development towards the SPB unless it is development which is appropriate for a countryside location and accords with other policies of the development plan. As the proposed dwelling does not comprise an acceptable form of development in principle within the countryside, the appeal scheme is contrary to emerging Policy B1 of the BPNP in respect of housing in the countryside.

*Other material considerations and planning balance*

12. The Council has confirmed that, notwithstanding the addition of a 5% buffer in accordance with the Housing Delivery Test 2019 published in February 2020, it cannot demonstrate a 5 year supply of deliverable housing sites as required by the *National Planning Policy Framework 2019* (the Framework). As such, there is an undisputed undersupply of deliverable housing sites within the Borough. Accordingly, BDLP Policies SS1 and SS6, which set out that the required development can be met within the defined SPBs and specific site allocations, and that development in the countryside will only be acceptable in set exceptional circumstances, are out of date. I therefore afford very limited weight to these policies in decision making terms. I also find that they are not entirely consistent with rural housing policy contained within the Framework, which is less restrictive.
13. Paragraph 11 d) of the Framework requires decisions to apply a presumption in favour of sustainable development. It states that, for decision taking, where policies which are most important for determining the application are out-of-date, including where a housing shortfall exists, granting permission unless:  
i) the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This approach is reflected in Policy SD1 of the BDLP which is referred to in the Council's reason for refusal.
14. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
15. In determining the application, the Council concluded that at this 'in principle' stage, no harm would result to the significance and setting of the Grade II listed dwellings on the opposite side of Well Street. Based on my site visit, which also included a consideration of the separation distance between the site and the listed buildings, the size and character of the appeal site, and the amount of proposed development, I have no reason to disagree with the

Council in respect of this matter. I find that this is a matter of neutral consequence in the overall planning balance, and that the proposal is not, therefore, contrary to paragraph 11 d) i) of the Framework in this respect.

16. In assessing the weight to be attributed to emerging Policy B1 of the BPNP, I have had regard to paragraph 14 of the Framework, which advises that in situations where the presumption (at paragraph 11 d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, subject to a number of criteria.
17. The BPNP has not been made, and the referendum is not due to take place until May 2021 at the earliest. As such, it fails to meet the first criteria of paragraph 14 which requires the BPNP to have become part of the development plan two years or less before the date on which the decision is made. I therefore find that, notwithstanding that the BPNP may meet the remaining criteria of paragraph 14, conflict with BPNP Policy BP1 is not on its own enough to significantly and demonstrably outweigh the benefits, such that the development would be contrary to paragraph 11 d) ii) of the Framework.
18. Notwithstanding the above, I have, nonetheless, afforded significant weight to the emerging BPNP in my decision, having regard to paragraph 107 of the Guidance, which confirms that where a local planning authority has issued a decision statement containing a detailed intention to send a neighbourhood plan (NP) to referendum, the plan can be given significant weight in decision-making so long as the NP is material to the planning application.
19. Having regard to the location of the proposal and emerging BPNP Policy B1, I have considered the appeal scheme against paragraphs 78 and 79 of the Framework and the Braintree caselaw<sup>3</sup>, which concluded that the definition of 'settlement' within the context of paragraph 79 is not defined and that the Framework contains no definitions of a 'community', a 'settlement' or a 'village', so that whether a site is considered 'isolated' or not, will be a matter of fact and planning judgement for the decision-maker.
20. I concur with the view of both main parties that the site does not lie within an isolated countryside location, having regard to its position near a group of existing dwellings, its proximity to Burghclere village and associated facilities and services, including schools, church and public house, and the nearby availability of public transport connections to Burghclere and Newbury. As such, I find no conflict with paragraphs 78 and 79 of the Framework, and that the proposal would comprise a sustainable location where a new dwelling would positively contribute to the maintenance of the vitality of the local rural community.
21. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. Government policy, as expressed in the Framework, is to significantly boost the supply of homes. The appeal scheme would make a small, but measurable, contribution to this objective, having regard to the Framework advice that small sized sites can make an important contribution to meeting the housing requirements of an area, and are often built-out relatively quickly.

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<sup>3</sup> Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

22. The appeal scheme would provide some economic benefits through employment at the construction stage and contribution towards the viability of local services through the subsequent occupation of the dwelling. It would also promote the vitality of the local community.
23. I have had regard to third party concerns in respect of a number of issues. Having regard to the environment, the Council has not raised any objection to the scheme in respect of its impact on the character and appearance of the area. It would appear as an infill development in relation to neighbouring dwellings, so that the rural nature of the locality would not be harmed, and the site is of sufficient size to accommodate a dwelling whilst enabling the retention of existing trees and mature landscaping.
24. I have no cogent evidence before me of harm arising from the appeal scheme in respect of matters including character and appearance, biodiversity, flooding, highway safety, traffic generation and neighbour living conditions. As this application relates to PIP, I am satisfied that these other matters should be dealt with through the TDC process.
25. In terms of the planning balance, I find that the lack of identified harm in respect of the above matters, including those which are not within the scope of a PIP application, would comprise a neutral factor.
26. I have also noted the third party concerns about precedent. I have not been provided with details of other similar development proposals. In any event, I must determine the appeal having regard to the particular circumstances of the appeal site and the proposed development.
27. Whilst there is some conflict with the BDLP and the emerging BPNP in respect of their strategies for housing delivery, I find that, notwithstanding the BPNP allocation for at least 15 dwellings and the planning permission already granted for 6 dwellings outside the Burghclere SPB, because of the Council's position in terms of the undersupply of housing, and, when assessing the development against the policies in the Framework taken as a whole, the benefits of the proposed development arising from the contribution made by the provision of an additional new dwelling, would significantly and demonstrably outweigh any adverse impacts.

## **Conclusion**

28. For the above reasons, I therefore conclude that the appeal should be allowed.
29. Whilst noting the Council's suggested list of informative notes, no conditions are applicable, since the Guidance makes it clear that it is not possible for conditions to be attached to a grant of permission in principle, whose terms may only include the site location, the type and amount of development.
30. Whilst the Guidance allows for the altering of the 3 years default duration of a PIP, it requires clear justification for doing so. I have acknowledged the Council's suggestion of a one year permission, but on the basis of the information before me and no sound evidence in support of a shortened consent period, I do not propose to alter the default permission duration.

*S Leonard*

INSPECTOR

