



Appeal Decision

Site visit made on 9 August 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

Appeal Ref: APP/N2739/W/21/3274188

Melton Cottage, Hillam Road, Gateforth, Selby YO8 9LQ

- 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 T Ellwood against the decision of Selby District Council.
 - The application Ref 2020/1054/FUL, dated 29 September 2020, was refused by notice dated 9 February 2021.
 - The development proposed is described on the application form as 'proposed two 4 bedroom detached dwellings within the garden space of Melton Cottage'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In their evidence the appellant has referred to Preferred Option Policy HG2 of the emerging draft Local Plan. However, this plan has not yet been examined and found sound. Consequently, I have afforded this policy limited weight.
3. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published. However, as the main parties have had an opportunity to comment on this matter, I am satisfied that neither party has been prejudiced in this regard.
4. The appellant has submitted an additional plan as part of the appeal which includes revised existing and proposed plans and elevations showing two proposed dwellings set further back with larger vehicular accesses and driveways. However, Annex M of the Planning Appeals Procedural Guide – England advises that the appeal process should not be used to evolve a scheme. It is important that what I take into account is essentially what was considered by the local planning authority and on what interested parties' views were sought. If I were to determine the appeal based on the revised plans it is possible that the interests of parties who might wish to comment would be prejudiced. For the avoidance of doubt, I have therefore determined the appeal on the basis of the plans which were before the Council when it made its decision.
5. The Council have described the development as 'Erection of two 4 bedroom detached dwellings within the garden space'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

6. In their statement the Council have highlighted that a certificate of lawful development has been granted for existing use of land as garden at Melton Cottage since the original application was determined and that as a result, they no longer wish to defend the third reason for refusal in respect of the size of lawful garden area. Consequently, I do not address this matter in the reasoning below.

Main Issues

7. The main issues are:
- whether the appeal site is a suitable location for residential development having regard to the accessibility of services and facilities;
 - the effect of the proposed development on the rural character of Gateforth;
 - the effect of the proposed development on the living conditions of the occupiers of Melton Cottage having regard to matters of outlook and light; and
 - the effect of the proposed development on highway safety.

Reasons

8. The appeal site is located on the edge of Gateforth a predominately residential village set within a wider rural landscape. The existing development pattern for the housing within the village largely consists of buildings in a linear pattern being clustered around the road network with agricultural fields surrounding them. Whilst the village is predominately residential, I consider its character to be intrinsically rural.

Whether a suitable location

9. Policy SP2 of the adopted Selby District Core Strategy Local Plan (SLP) sets out the spatial distribution of future development within the plan area with most new development being directed to the identified towns and more sustainable villages with other development being supported on non-allocated sites. This includes limited amounts of residential development within the limits of secondary villages with new development in the countryside being subject to several limitations. Consequently, the proposal would need to meet the criteria set out within Policy SP2 for it to be acceptable in principle.
10. As a result and based on the evidence before me, it is clear that the most important policy for determining this appeal is Policy SP2. The appellant has argued that Policy SP2 is out of date due to its inconsistency with the Framework as per paragraph 219. However, even though Policy SP2 pre-dates the current version of the Framework, its broad aim is to focus new development in more sustainable and accessible locations such as towns and villages. In my view it is therefore broadly consistent with the Framework in terms of its overarching aim of achieving sustainable development. As a result, I consider Policy SP2 not to be out of date and afford it due weight.
11. Both main parties agree that the appeal site is located outside the settlement limits defined by Policy SP2.
12. The appellant has also stated that the proposal would be infill development. 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. The proposal would largely infill the gap between Melton Cottage and complete an otherwise substantial

built-up frontage. Consequently, I find that it would be limited infill development.

13. The appellant has also argued that this means that the proposal would also accord with emerging draft Policy HG2 in this regard as it allows infill development within Smaller Villages. However, as submitted by the appellant draft Policy HG2 does not specifically state that Gateforth would be classed as a smaller village. I also have no other substantive evidence before me to demonstrate that this would be the case. As a result, I cannot conclude that the proposal would comply with this emerging policy.
14. As already stated, the proposal would not accord with Policy SP2 as it would be located outside the settlement boundary defined by the development plan. However, the proposal would bridge the small spatial gap between the properties on this side of Hillam Road. Therefore, and bearing in mind the Braintree judgement¹, I consider that in functional terms the 'on the ground' situation in this case, would be that it would for all intents and purposes be located within the village of Gateforth which is classed as a secondary village. This combined with the proposal's small scale means that I find that it would cause limited harm in this regard.
15. In any event, it is necessary for me to undertake an assessment of the appeal scheme in relation to its sustainability and its accessibility to services and facilities.
16. Paragraph 79 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, the proposed housing would provide a limited boost to the local economy and businesses which would potentially help to sustain services within the village. However, these potential economic and community benefits would be dependent on residents being able to meet many of their service needs within the village.
17. From the evidence before me and what I saw on my site visit the services and facilities in Gateforth are limited and the village is not well-served by public transport. As a result, I consider it likely that residents would need to travel by private car to larger settlements to obtain their goods and services. For similar reasons I also consider that the proposed development would not reduce the reliance of residents on private vehicles to obtain their day-to-day goods and services. The appeal proposal would therefore not be in a sustainable location.
18. I note the appellant's point that given the appeal site's location on the edge of a settlement that paragraph 80 of the framework would not be applicable in this case. However, even so, no substantive evidence has been provided to show that the appeal site would be in a location from where its future occupiers could access services and facilities to meet their day-to-day needs in a sustainable way.
19. Consequently, taking into account all of the factors discussed above, and being mindful of paragraph 105 of the Framework, I find that the appeal site is not a suitable location for residential development meaning that it would cause significant harm in this regard.

¹ Braintree District Council v SSCLG Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

20. I also note that the housing numbers set by Policy SP5 represent a floor not a ceiling and that as a result they are a minimum requirement. However, even so, this does not mean that the appeal site would be a suitable location for housing regardless of the harm I have identified above.
21. I therefore conclude that the proposed development would conflict with Policy SP2 of the SLP. For the same reason it would also conflict with paragraphs 8 and 79 of the Framework.

Character and Appearance

22. According to their officer report the Council have not raised a concern in relation to the design, form, density, and appearance of the proposed dwellings. Instead, their concern relates to the visual impact of the proposal on the open countryside. However, as outlined in the Council's and appellant's evidence, the appeal site is currently being used as a residential garden. It is also bounded by vegetation and situated within a gap between two dwellings at the edge of a settlement and on a main road. Consequently, I consider the appeal site to be relatively enclosed and not to be within an open rural landscape. As a result, I find that the proposal would not have an adverse visual impact on the open countryside.
23. I note the Council's point that the pair of cottages on one side of the appeal site stand outside the defined settlement limit on the other side of the visual gap formed by the site and that as a result they appear detached and do not visually relate to the built form of the village. However, given that the proposal would infill this gap, it would extend the built form and prevailing development pattern of the village until it reached these cottages thereby visually attaching them to the rest of the settlement so that they no longer stood out. As a result, I find that the proposal would not have an adverse visual impact in this regard either.
24. I therefore conclude that the proposed development would not materially harm the rural character of Gateforth. It would therefore meet the requirements of policies SP18 and SP19 of the SLP and paragraphs 130 and 174 of the Framework.

Living Conditions

25. In their officer report the Council raise a concern in relation to the proposal's impact on the living conditions of the neighbouring occupiers of Melton Cottage as the proximity of the gable end of the proposed dwelling closest to it would lead to an unacceptable loss of outlook from and sunlight to the windows on the side elevation of the cottage. However, given the gap between the side of Melton Cottage and the proposed dwelling, the fact that it would be set back from it and set at a slight angle away from it, I consider that the proposal would not cause an unacceptable loss of outlook from or sunlight to these windows.
26. I therefore conclude that the proposed development would not materially harm the living conditions of the occupiers of Melton Cottage having regard to matters of outlook and light. It would therefore meet the requirements of Policy ENV1 of the SLP and paragraph 130 of the Framework in these regards.

Highway Safety

27. No formal objection apart from a query relating to the ability of vehicles to turn on the proposed driveways was received from the Highway Authority. Although it is clear from additional correspondence submitted by the Council that the Highway Engineer was concerned enough to recommend refusal, nonetheless.
28. I note the appellant's point that some other properties within Gateforth have accesses which necessitate vehicles having to potentially reverse out onto the main road which given the speed limit and likely low volume of traffic would mitigate any potential harm. However, one of these properties 'Wayside', is on the opposite side of the road and further towards the main part of the village than the appeal site. Consequently, it is likely that passing traffic will have had more time to slow down and follow the speed limit on this part of the road.
29. Furthermore, given the appeal site's location on a slight bend in the road close to the edge of the existing settlement, the fact that it is near to where the speed limit changes and near another more pronounced bend in the road at that point, I find that it would be potentially an unacceptable risk to highway safety for a driver not to be able to exit the proposed driveways in forward gear, nevertheless. Moreover, the fact that a similar small and narrow vehicular access serves the cottages located on the other side of the appeal site to Melton Cottage would to my mind only serve to exacerbate this potential risk to highway safety on this part of the road for similar reasons.
30. As a result, and bearing in mind paragraph 111 of the Framework, I conclude that the proposal would cause unacceptable harm to highway safety. Accordingly, it would conflict with policies T1 and T2 of the SLP and paragraph 111 of the Framework.

Other Matters

31. As set out above I consider the most important policy for determining this appeal to not be out of date. In addition, both main parties agree that the council can demonstrate a deliverable supply of housing land exceeding 5 years. According to the Council's evidence this equates to approximately 7.7 years a figure which the appellant does not dispute. Consequently, the presumption in favour of sustainable development contained in paragraph 11 d) of the Framework is not engaged in this case.

Planning Balance and Conclusion

32. The proposed development would not conflict with development plan policies in respect of character and appearance or living conditions. However, the avoidance of harm in these respects does not alter, outweigh, or overcome my conclusions on the other main issues. As a result, this also does not amount to a positive consideration in support of the appeal scheme overall. Consequently, the proposal would not accord with the development plan and the Framework when read as a whole and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies contained within them. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

C Coyne INSPECTOR