



Appeal Decision

Site visit made on 2 August 2022

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2022

Appeal Ref: APP/F1610/W/22/3294839

Birchfield, Broad Marston Lane, Mickleton GL55 6SF

- 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 Adam Renn of Makestone Strategic Land against the decision of Cotswold District Council.
 - The application Ref 21/03745/FUL, dated 3 October 2021, was refused by notice dated 1 December 2021.
 - The development proposed is the demolition of the existing dwelling and development of 2 new dwellings and associated parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue of this appeal is whether the location of the proposed development is appropriate, having regard to local planning policies on the location of housing.

Reasons

3. The appeal site is located on Broad Marston Lane, on the outskirts of the settlement of Mickleton. The site comprises a single storey dwelling which is largely screened from the lane by an established hedgerow, containing several mature trees, set back behind a grassed verge. Whilst the existing dwelling is not isolated, it is located on the side of the lane that has an open, rural character, in contrast to more densely built-up area on the opposite side.
4. Paragraph 12 of the National Planning Policy Framework (2021) (the Framework) is clear that the development plan is the statutory starting point for decision making. Moreover, where a planning application conflicts with an up-to-date development plan, permission should not usually be granted unless material considerations indicate that a plan should not be followed.
5. Mickleton is defined as a Principal Settlement by Policy DS1 of the Cotswold District Local Plan 2011-2031 (August 2018) (the Local Plan) and identified as a sustainable location to deliver future growth. Policy DS4 of the Local Plan seeks to promote sustainability through focussing most growth to the Principal Settlements and restricting new-build open market housing, which is not needed in the countryside, outside the defined development boundaries. There is no dispute between the main parties that the appeal site lies outside the Mickleton development boundary. Therefore, for the purposes of the development plan, the site is referred to as countryside. Whilst Policy DS4 of

the Local Plan specifies exceptions to open market housing restrictions in the countryside, none of these apply to the proposed development. It may be the case that flexibility in the strategy is achieved via Policy DS3 of the Local Plan, but as this policy relates to Non-Principal Settlements it is not directly relevant or determinative in this case.

6. I conclude that the development proposed would not accord with the plan led strategy for housing and growth set out in the Local Plan and there are no exceptions or identified policies that would permit additional dwellings in this location. As the appeal site would not represent an appropriate location for open market housing, it would conflict with Policy DS4 of the Local Plan in this regard.

Other Matters

7. I have been referred to a High Court judgment¹ which relates to the interpretation of the Framework's presumption in favour of sustainable development where a local planning authority is unable to demonstrate a 5-year supply of deliverable housing sites. As there is no dispute between the main parties that the Council can demonstrate such a supply of housing, I have no substantive evidence before me to conclude that the most important policies are out of date. Moreover, the accuracy of the development boundary is not a matter for me to consider in this appeal.
8. I acknowledge that housing requirements should be treated as a minimum, as per paragraph 61 of the Framework which seeks to significantly boost the supply of homes whilst recognising the important contribution that small sites can make. Paragraph 60 of the Framework also emphasises housing land should come forward where it is needed. As I cannot be certain that a specific housing need in Mickleton would be served by the proposed development, the release of this site is not needed.
9. Evidence before me indicates that the nearby dwellings of Marston View and Broad House on Broad Marston Lane, and the larger residential development on the other side of the lane were built on land outside a defined development boundary. However, the evidence also confirms that these were granted planning permission prior to the adoption of the Local Plan, at a time when a 5-year land supply of housing could not be demonstrated. The planning balance would therefore have been different to the case before me.
10. My attention has also been drawn to an appeal² which relates to a site excluded from a different Principal Settlement development boundary in the district. Given this site's central location within the village and relationship with the surrounding built form, development of the site resulted in consolidating, rather than extending, the settlement. The cases are not therefore necessarily comparable. Notwithstanding this, I am not aware of all the evidence or arguments before the Inspector on that case and I have based my decision on my observations of the site and its surroundings, along with the evidence before me.
11. Even if I were to consider that the proposed development would not harm the character and appearance of the area, living conditions, highway safety or any

¹ *Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East Borough Council* [2017] UKSC 37

² APP/F1610/W/20/3262431

other matter, these would be neutral matters that weigh neither for nor against the proposed development. Although no environmental harm has been identified, as there is no substantive evidence that demonstrates the proposed development would provide environmental benefits, this is also a neutral factor.

12. Whilst the net gain of a single dwelling would have social and economic benefits in a location accessible to certain services and facilities, such benefits would be small. As such, these would not outweigh the development plan conflict identified above.

Conclusion

13. The proposed development would conflict with the development plan as a whole and there are no material considerations in this case which suggest a decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

Juliet Rogers
INSPECTOR