

**APPEAL BY MR & MRS D AND K SLATER AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT AT LAND EAST OF WINDCLOSE COTTAGE, STONE ROAD, HILL CHORLTON**

<b><u>Application Number</u></b>	<b>14/00875/OUT</b>
<b><u>Recommendation</u></b>	<b>Refusal</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Planning Committee on 3<sup>rd</sup> February 2015</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>9<sup>th</sup> November 2015</b>

The Inspector considered the main issues to be

- the effect of the proposal on the character and appearance of the surrounding countryside,
- whether it would represent sustainable development in accordance with the Framework and
- its effect on the provision of affordable housing and educational facilities in the area.

In dismissing the appeal the Inspector made the following comments:

*Character and Appearance*

- As the Council has accepted that it cannot currently demonstrate a 5 year supply of deliverable housing sites relevant policies for the supply of housing should be considered to be not up-to-date in accordance with paragraph 49 of the Framework. Where relevant development plan policies are out-of-date, paragraph 14 of the Framework makes it clear that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF at a whole, as specific policies in the Framework do not indicate that development should be restricted in this case. This is the basis on which the appeal is determined.
- Although the site is located between farm buildings and a pair of houses and near to a collection of buildings known as Slaters, it is a significant distance from any of the surrounding villages and is outside any recognised settlement. As such it lies within the open countryside in an area defined as a 'Landscape Maintenance Area'. The surrounding development consists mainly of farms and isolated dwellings that are inconspicuous within the generally rural area, which includes agricultural fields that are bounded by hedgerows and small clusters of trees, with some woodland.
- The scale of the proposed development has not been determined but even if restricted by condition to 4 dwellings, as suggested by the appellant, the proposed dwellings would result in infilling a relatively wide gap with built development along the A51 with the loss of agricultural land. The topography of the area would be likely to make the dwellings stand out in views from the highway and the resulting increased activity and domestication of the agricultural site would be clearly apparent as a change to its rural character and appearance.
- Based on this, the proposed residential development, even if restricted to 4 dwellings as suggested by the appellants, would be intrusive and would be out of keeping with the generally rural and open character of the surrounding countryside. The proposal would have an unacceptable adverse effect on the character and appearance of the surrounding area and would fail to accord with Core Spatial Strategy (CSS) Policy CSP1, as it would not respect the character of its rural setting and the settlement pattern created by the hierarchy of centres, and Policy N19 of the Local Plan, as it has not been demonstrated that the development would not erode the character or harm the quality of the landscape within an Area of Landscape Maintenance.

*Sustainable Development*

- The NPPF gives the three dimensions to sustainable development as economic, social and environmental. In terms of the economic dimension, the appellants have

argued that more housing would help sustain the businesses within Slaters shopping village but the proposal would provide limited additional custom to those businesses, most of which don't appear to cater for the everyday needs of families.

- The walk to Baldwin's Gate village along country lanes with no footway or street lighting would be unattractive and a safety risk for pedestrian use, particularly by children. The bus stops would need to be reached by crossing the busy A51 road to use an overgrown footway on the opposite side of the road. Also there are limitations to the bus service. Therefore, the distance of the site from the shops and services of Baldwin's Gate would make it likely that most of the journeys by occupiers and visitors to the proposed dwellings would be made by car, making it an unsustainable location.
- In terms of the social dimension, paragraph 55 of the NPPF indicates that to promote sustainable development housing should be located where it will enhance or maintain the vitality of rural communities. The proposed development would not achieve this objective as it would make very little contribution towards the vitality of the rural communities in the area due to the lack of reasonable access to nearby settlements by any transport other than the private car.
- Turning to the environmental dimension, the proposal would have an adverse impact on the rural character and appearance of the area for the reasons already given.
- The proposal would not therefore represent sustainable development in accordance with the Framework.

#### *Affordable Housing and Educational facilities*

- The appellants have submitted a signed S106 Unilateral Undertaking which would secure at least 2 affordable homes and a contribution towards education facilities.
- It is necessary to secure an appropriate level of affordable housing on the site to ensure that the proposal would not have an adverse effect on the provision of affordable housing in this area and would accord with CSS Policy CSP6.
- The education contribution would ensure compliance with CSS Policy CSP10. Staffordshire County Council (SCC) has advised that both Baldwin's Gate CE Primary School and Madeley High School are projected to have insufficient places available to accommodate the likely demand from pupils generated by the development and that a contribution of £38,684 for 2 primary places and 1 secondary place would be required. The contribution has a clear and reasonable rationale that meets the tests of CIL Regulation 122, although it should be related to the number of dwellings that would be provided.
- CIL Regulation 123 indicates that a planning obligation may not constitute a reason for granting planning permission to the extent that five or more separate planning permissions granted for development within the area of the authority and which provide for the funding or provision of that project or type of infrastructure have been previously entered into. The Council has suggested that there has been just one planning obligation entered into since April 2010 providing for a contribution towards Baldwin's Gate Primary School, but there have been five obligations entered into for Madeley High School. Although SCC has indicated that the contributions would be for a different project from that at Madeley High School, this is not included in the planning obligation and there is no substantive evidence to show where previous contributions have been used. Therefore, the obligation does not satisfy CIL Regulation 123 (3) and cannot be used in support of this appeal. As such, the proposal would fail to make adequate provision for educational facilities in accordance with CSS Policy CSP10.

#### *Overall Conclusions*

- The development would make a contribution towards the shortfall in the 5 year housing supply, including affordable housing, and reduced weight should be given to the relevant policies on housing. However, the adverse impacts of the development significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not represent sustainable development and having regard to all the matters raised, the appeal should fail.

## **Your Officer's Comments**

The Inspector considered that the Unilateral Undertaking (UU) submitted by the appellant does not satisfy CIL Regulation 123 in relation to the securing of a financial contribution towards education provision. As Members are aware, Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it is in respect of a specific infrastructure project or a type of infrastructure and five or more obligations providing for the funding for that project or type of infrastructure have already been entered into since 6 April 2010. There have been five obligations entered into for Madeley High School but on the basis that those existing obligations have been for a particular project and that any subsequent planning obligations will be for a different project, your Officers have considered and continue to consider that appropriately worded such contributions comply with CIL Regulation 123.

Although Officers of both the Borough Council and Staffordshire County Council advised that the UU should be worded to describe what specific projects the contributions are to be used for, the appellant did not take this on board. As a result, the Inspector considered that the education contribution obligation submitted by the appellant did not satisfy CIL Regulation 123. The Inspector did not make any comment however upon the acceptability or otherwise of the approach adopted by Officers in other cases.