

APPEAL BY DESIGN CONSTRUCTION MANAGEMENT SERVICES LTD AGAINST THE BOROUGH COUNCIL'S FAILURE TO GIVE NOTICE WITHIN THE PRESCRIBED PERIOD OF A DECISION ON AN APPLICATION FOR OUTLINE PLANNING PERMISSION FOR A RESIDENTIAL DEVELOPMENT OF UP TO 9 DWELLINGS AT ROWNEY FARM, LOGGERHEADS

Application Number **15/00821/OUT**

LPA's Decision **The appeal was made against a failure to give notice within the prescribed period of a decision on an application. Subsequent to the appeal being lodged it was decided under delegated powers that had the appeal not been lodged the application would have been refused.**

Appeal Decision **Dismissed**

Date of Appeal Decision **28th April 2016**

The Inspector recognises that whilst the appeal was submitted as a result of the Council failing to give notice within the prescribed period the Council have indicated that they would have refused permission for the scheme on the basis of the site's isolated countryside location, and the impact of the development on the character of the countryside. As these issues are the main areas of dispute between the parties these were the main issues for consideration. The Council also had indicated that it had concerns that the submitted Unilateral Undertaking would secure a contribution that was not directly related to the development.

In dismissing the appeal the Inspector made various observations including as follows:-

Principle of the development proposed

- The appeal site is outside of the defined village envelope for Loggerheads. For the purposes of the development plan, the site is therefore within the countryside.
- The appeal site is currently partly undeveloped and is occupied by an existing agricultural building. As such it is excluded from the definition of previously developed land contained within Annex 2 of the National Planning Policy Framework (Framework).
- The principle of the development proposed would therefore conflict with policy SP1 and policy ASP6 of the Core Spatial Strategy (CSS) and saved policy H1 of the LP.
- The Council accepts that it is unable to demonstrate an up to date five year supply of deliverable housing sites in line with the requirements of the Framework. As such, the presumption in favour of sustainable development as set out in paragraph 49 of the Framework applies. Therefore limited weight must be attached to any conflict with the above policies
- The Council have referred to paragraph 55 of the Framework in their putative reasons for refusal which, among other things, states that new isolated homes in the countryside should be avoided unless there are special circumstances. None of those listed are directly relevant to the appeal proposal.
- The appeal site is situated approximately 400m from the development boundary/village envelope of Loggerheads. As Loggerheads has been identified as a key rural service centre it is considered a suitable location for new housing development. It is the site's connection with and relationship to Loggerheads that is at issue. The small residential grouping of Rowney Farm, together with the appeal site, lie surrounded by open fields.
- Whilst the appeal site is close to the boundary of Loggerheads, this is not immediately visible until one exits the site and look towards the village. There are also open fields between the village boundary and the appeal site which functionally and visually separates the site from the settlement. Therefore whilst there are a limited number of dwellings and farms in the area, the character of the area close to the

appeal site is defined by the pastoral landscape which surrounds it with little visual evidence of other built development.

- The appeal scheme proposes the construction of a footpath along the highway verge next to the A53 on the opposite side of the highway to the site which would provide a connection to Loggerheads.
- The appellant's Transport Statement (TS) acknowledges that given the semi-rural location of the site, it is assumed that the majority of trips will be car based. The TS refers to the proposed footpath in section 6.2 of the report but accepts that most residents would probably choose not to walk along the A53.
- The Inspector considers that future occupants would be unlikely to choose to walk along the footpath, particularly when walking in groups or with young children due to the nature of the road, the speed limit and users having to cross the busy A53, with its high number of hgv's, twice to get to the village centre. Similarly occupants of the houses would be unlikely to cycle into Loggerheads either. Whilst the distances to the facilities in Loggerheads are not that great (920m from the centre and approximately 1190 from the Hugo Meynell Primary School) it is the specific context to the site and its connection with the village along the A53 which causes her to doubt whether future occupants will access these services via walking or cycling.
- There is no definition within the Framework of the meaning of an 'isolated dwelling' for the purposes of paragraph 55. However, the character of the area close to the appeal site is rural with little visual evidence of other built development. It therefore has a remote, rural feel and is physically and visually separated from the boundary of Loggerheads by open fields. Whilst there are services and facilities available in Loggerheads and the wider area, future occupants would be likely to choose to access these via the private car.
- The contribution that future occupants of the proposed development may make to the vitality of Loggerheads village would be likely to be limited as if they choose to travel by car they may well find it more convenient to travel to larger centres, such as Market Drayton or Newcastle-under-Lyme in order to access a wider range of services and facilities.
- For these reasons, she considers that the proposal would result in the construction of new homes in the countryside which paragraph 55 of the Framework states should be avoided unless there are special circumstances, none of which are directly relevant to the appeal proposal. The appeal site would therefore conflict with paragraph 55 of the Framework, and the principle of development would not be acceptable with regard to the countryside location of the site.

Character and appearance of the area

- The site is surrounded by open fields, framed by woodland and lines of trees and the landscape is dotted with farms with generous spacing between them. Whilst the appeal site is approximately 400m from the village boundary of Loggerheads, views of the developed part of the village are not immediately obvious from the site itself. There are also open fields in between the appeal site and the village which serve as a visual and physical break between them.
- The appearance of the appeal site in its current form makes a positive contribution to the character of the area as it forms part of the mosaic of farms that are visible across the landscape. The existing barn's functional appearance is typical of the type of building one would expect to see in a countryside setting.
- The introduction of up to nine additional dwellings would result in an increase in the level of built development within the area close to the appeal site.
- The type and scale of the development proposed would be at odds with the rural character of the area and in a location that is seen as visually and physically remote from the village. The proposal would also seriously detract from the contribution that the appeal site makes to the character of the area as it would disrupt the pattern of development which is defined by dispersed farms within a pastoral landscape setting.
- Accordingly, she concludes on this issue that the proposal would be harmful to the character and appearance of the area.

Other matters

- There are the Inspector recognises several social and economic factors which weigh in favour of the proposal. These include the provision of additional housing (including affordable units) although given the scale of the proposal she gives limited weight to these considerations. That future occupants may in accessing goods and services in Loggerheads make a modest contribution to maintaining the viability of local services is recognised, as are the limited and short term economic benefits of the construction phase of the proposal. The financial contribution towards open space improvement is seen by the Inspector as a modest benefit. Other factors such as the fact that a safe and suitable access can be formed, and the greenfield status of the land are seen as purely neutral factors.

Conclusions

- In concluding the Inspector recognises that the Framework establishes a presumption in favour of sustainable development, and that as the Council is unable to demonstrate a 5 year supply of housing land, paragraph 49 of the Framework is engaged. Accordingly whilst the principle of housing here, on land beyond the village envelope, would conflict with various development plan policies the weight to be given to this must be limited. There are several social and economic factors which weigh in favour of the proposal including the provision of additional housing (including affordable units), adding diversity to the housing stock, the creation of jobs and other economic benefits during the short duration of the construction phase, a modest contribution to the maintenance of local services should future occupants of the proposal choose to use them, and a financial contribution towards public open space.
- However she also has found that that the proposal would result in the construction of up to nine additional dwellings in an isolated countryside location. The proposal would therefore conflict with paragraph 55 of the Framework and she has also concluded that the proposal would be harmful to the character and appearance of the area and would conflict with policy CSP1 of the CSS, policies N17 and N21 of the Local Plan and the Council's Urban Design SPD. The proposal would also conflict with paragraph 17 of the Framework in this regard (the core principles).
- For the above reasons she considers that in this case the adverse impacts of the proposal do significantly and demonstrably outweigh the benefits, when assessed against the relevant development plan policies and the Framework as a whole.

Your Officer's Comments on this appeal decision

The particular circumstances of this appeal need to be taken into account if comparison is to be made with other proposals. The Inspector for example distinguishes between the appeal proposal new housing proposals that have been allowed at the adjoining Rowney Farm including the conversion of barns to residential dwellings and (on appeal) of a granny annexe to a dwelling – the reuse of redundant or disused buildings being a special circumstance in terms of paragraph 55.. The Inspector makes much comment on the nature of the connection between Loggerheads and the appeal site – the A53. She does find some benefits although gives them limited weight, but the combination of her conclusions that the scheme would result in “isolated dwellings” where the NPPF presumes against these and would be harmful to the character of the countryside (the adverse impacts) outweigh such benefits lead to her conclusion that the appeal should be dismissed. Each proposal needs to be determined on its own individual merits

Recommendation

That the decision be noted.