

## **APPEALS ON LAND OFF ELDERTREE LANE, ASHLEY AND CHARNSFORD LANE, THE DALE, ASHLEY**

Following the appeal decision that was reported to Planning Committee at its last meeting, relating to the refusal of planning permission for a single dwellinghouse on land rear of the Steps, Doctor's Bank, Ashley, a further two appeal decisions in the Ashley area have been received and are reported below.

### **1. APPEAL BY MRS JEN DERRICOTT AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR A SINGLE DWELLING HOUSE ON LAND OFF ELDERTREE LANE, ASHLEY**

<b><u>Application Number</u></b>	<b>16/00140/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused under delegated powers 25<sup>th</sup> April 2016</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>9<sup>th</sup> August 2016</b>

In dismissing the appeal, the Inspector found the main issue to be whether, in the context of national policy and adopted local planning policy, the development is appropriate on this site. The key points raised by the Inspector within the appeal decision are summarised as follows:

- Not a matter of dispute that the Council is unable to demonstrate a 5 year supply of housing. Consequently Policy H1 of the Local Plan and Policies SP1 and ASP6 of the Core Spatial Strategy should be considered not to be up-to-date. The effect of this, taking into account paragraph 49 of the NPPF, is that the presumption in favour of sustainable development is to be applied. However, this is not to say that the policies should be totally disregarded as they remain part of the adopted Development Plan, rather the weight should be reduced accordingly.
- The appellant referred to the site being around 350m north-west of Ashley and the Council approximately 450m. Irrespective of the exact distance the site clearly forms part of the open countryside. It is not part of the appellant's case that the proposed development would fall in any categories of special circumstance listed in Paragraph 55 of the NPPF that apply to new isolated homes in the countryside.
- It would be possible for future occupants to walk or cycle into Ashley to attend church services or use the very limited facilities and the range of deliveries and peripatetic services which visit Ashley, including a bus service for primary and secondary school children.
- Ashley has limited employment opportunities.
- There is a bus stop within walking distance of the appeal site which is served by a regular day time service.
- Whilst the Inspector accepted that this is a relatively frequent service for a rural area, it is probable that any future occupants of the house would be likely to use the car for their day to day needs, including commuting to work. Nonetheless, in common with the Inspector who determined the recent appeal within Ashley at Doctor's Bank (which was reported to the 19<sup>th</sup> August Planning Committee), given the relative ease of access to the bus service, in contrast to the situation reported at the Rowney Farm appeal (reported to the 24<sup>th</sup> May Planning Committee) where a major road had to be crossed, the Inspector accorded moderate weight to the environmental harm in respect of the limited accessibility of the appeal site to means of transport other than the private car.
- As the occupants are likely to use their car for their day to day needs it is therefore probable that they would drive to settlements with more facilities and greater choice and therefore the construction of an additional dwelling would make little contribution to the vitality of the rural community and would be contrary to the provisions of Paragraph 55 of the NPPF.
- To provide a safe access requires the existing field access to be extended and the hedgerow trimmed back to enable adequate visibility splays.

- On the basis that the hedgerow forms part of a Pre Parliamentary enclosure field system, and is therefore considered 'important' a Hedgerow Retention Notice has been served and is now the subject of a separate appeal.
- Policy N12 of the Local Plan promotes the protection of significant tree, shrubs or hedges in the landscape and is generally consistent with paragraph 109 of the NPPF. As such Policy N12 is afforded significant weight. The loss of a significant proportion of the hedging fronting Eldertree Lane along the appeal site would impact significantly on the quality of the landscape and result in the loss of hedgerow which due to its age should be valued for its own merits. The proposal would be contrary to Policy N12 and the Inspector accorded it significant weight.
- The limited contribution of one dwelling towards addressing the undersupply of housing does not outweigh the harm identified and the proposal is thus not sustainable development for which there is a presumption in favour.

**2. APPEAL BY MR NICK BRIDGETT AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR TWO PLOTS TO ACCOMMODATE DETACHED DWELLINGS WITHIN THE CURTILAGE OF CHARNSFORD HOUSE, CHARNSFORD LANE, THE DALE, ASHLEY**

<b><u>Application Number</u></b>	<b>15/00934/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused under delegated powers 11<sup>th</sup> December 2015</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>2<sup>nd</sup> August 2016</b>

In dismissing the appeal, the Inspector found the main issues to be:

- (i) Whether the proposed development would be sustainably located, with particular regard to access to local services and facilities;
- (ii) The effect of the proposed development on existing trees; and
- (iii) The effect of the proposed development on the character and appearance of the area.

The key points raised by the Inspector within the appeal decision are summarised as follows:

*Location of development*

- As in the appeal above, the Inspector indicated that as the Council does not have a 5 year supply of housing land, policies for the supply of housing are not up-to-date.
- Whilst not up-to-date, the Council's policies remain part of the Development Plan. The appeal site would be outside a settlement boundary and therefore would be contrary to Policies SP1 and ASP6 of the Core Spatial Strategy and Policy H1 of the Local Plan. The weight that can be attached to this conflict however is limited given the Council's lack of a 5 year housing land supply.
- Ashley village is less than half a mile from the appeal site, which has a number of facilities. The new dwellings would not be connected to Ashley by a safe or convenient means of access; the road connecting the two is a single track country road, devoid of a pavement or cycle lane. Walking or cycling to the services and facilities on offer, or to the local bus service, would not be a realistic option. Instead it is likely that journeys would be made by car.
- Approximately 1.5 miles from the site is Loggerheads a key rural service centre. The occupiers of the new dwellings would have few sustainable transport choices to Loggerheads from the appeal site. Consequently the proposal would result in unsustainable journeys, contrary to the objectives of the Framework.
- Weighed against this is the contribution two new dwellings would make to the shortfall in housing land supply. The proposal would also benefit local employment. The weight attributed to these benefits is limited, however, given the small number of houses proposed and the limited accessibility of the site and therefore the lack of sustainable transport options for prospective occupiers travelling to and from work.

- The harm identified, would not be significantly and demonstrably outweighed by the limited positive benefits. In line with paragraph 14 of the NPPF the development should not be granted planning permission in accordance with the presumption in favour of sustainable development.

#### *Existing trees*

- Trees that collectively contribute to the rural and verdant character of the area could be eventually lost due to damage to the roots due to tarmac surfacing and excavations required to form a driveway. This would be harmful to the rural character of the area and contrary to policy N12 of the Local Plan.

#### *Character and appearance of the area*

- Being on the lower slopes of Charnsford House and surrounded by landscaping, the dwellings would sit comfortably within their surroundings. Furthermore, set apart from each other and below Charnsford House, the dwellings would be appreciated within good sized plots which are characteristic of other properties within the area.
- The Inspector did not agree with the Council that the proposal would be harmful to the rural setting of the site.

#### *Conclusion*

- The development would be outside of an existing settlement and would not be sustainably located. Furthermore the loss and damage to existing trees which would have a harmful impact on the rural character of the area. Weighed against these matters is that the development would not have a harmful effect on the character and appearance of the local area. The harm identified would not be outweighed by the limited benefits of the scheme.

#### **Officer comments**

As Members are aware appeal decisions can be a material planning consideration in the determination of any subsequent planning applications. This is apparent in the first of the appeal decisions reported above which makes reference to other appeal decisions in the locality in assessing whether that site is in a sustainable location (one of the appeals referenced was reported to 19<sup>th</sup> August Planning Committee).

In light of the three recent decisions in Ashley it is considered an opportune time to reflect upon the picture that has begun to emerge from appeal decisions in the Loggerheads / Ashley area as to the sites where their location weighs significantly for or against the proposed development.

The Table below, therefore, sets out the appeal decisions within the Loggerheads/Ashley area over the last few years where location was a factor in the decision reached by the Inspector. The plan attached as an Appendix to this report shows the locations of the appeal proposals listed in the Table. Older appeal decisions and other appeal decisions where location was not addressed have not been included.

<b>App Plan no.</b>	<b>Application Ref. no.</b>	<b>Proposed development &amp; Site location</b>	<b>Appeal decision (&amp; date when appeal decision reported to Comm )</b>	<b>Did location weigh in favour or against the proposal?</b>
1.	16/00140/FUL	Single dwelling on land off Eldertree Lane, Ashley	Dismissed. (Reported above)	Against
2.	15/00934/OUT	Two dwellings at Charnsford House,	Dismissed (Reported	Against

		Charnsford Lane, Ashley	above)	
3.	15/00821/OUT	9 dwellings at Rowney Farm, Loggerheads	Dismissed (24.05.16)	Against
4.	15/00540/OUT	Single dwelling on land rear of the Steps, Doctor's Bank, Ashley	Allowed (19.08.16)	In favour (within the Ashley village envelope)
5.	15/00404/OUT	Two detached 4/5 Bedroom Dwellings at Wrekin House, off Mucklestone Wood Lane	Dismissed (26.04.16)	In favour
6.	14/00884/FUL	Change of use from Granny Annex to Detached Dwelling at Rowney Farm, Loggerheads	Allowed (13.10.15)	Against
7.	14/00053/OUT	Single dwelling at Land behind no. 5 Pinewood Drive, Ashley Heath	Dismissed (28.04.15)	In favour

**Recommendation**

**That the decisions and the information provided on other appeal decisions be noted.**