

**APPEAL BY MARCUS MACHINE & TOOLS LIMITED AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE ERECTION OF 10 DWELLINGS AT LAND OFF WOODROW WAY, ASHLEY**

<b><u>Application Number</u></b>	<b>17/00605/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Planning Committee on 8<sup>th</sup> December 2017</b>
<b><u>Appeal Decision</u></b>	<b>Appeal dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>5<sup>th</sup> December 2018</b>

**The Appeal Decision**

The Inspector identified the main issues to be;

- Whether the development would be in an accessible location; and
- Whether the development would make suitable provision for affordable housing and educational provision in the area.

In dismissing the appeal the Inspector made the following comments:-

*Whether the proposal would be in an accessible location*

- For the purposes of the development plan, the appeal site is adjacent to but outside of the village envelope of Ashley and therefore within the open countryside and a Landscape Maintenance Area. Ashley is not identified as a Key Rural Service Centre. The site is also greenfield. Information submitted with the appeal indicates that any affordable housing provision would be in the form of a financial contribution for off-site provision and so this element of the scheme would not comply with Policy H1's requirement that any affordable housing should be sited within an existing group of dwellings.
- For these reasons the appeal proposal would not accord with the spatial strategy of the Core Spatial Strategy (CSS) for the location of new housing development and would conflict with Policies SP1 and ASP6 of the CSS and Policy H1 of the Local Plan (LP) in this regard.
- The Council Officer's report also went on to assess the proposal against Paragraph 55 of the previous Framework. The relevant paragraph from the revised Framework is now 78 which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- Ashley village does have some services including a church, a restaurant, a doctor's surgery, a pub, a village hall and a hairdressers. However these services are very limited in scope and would be unlikely to meet the basic day to day needs of future occupants of the proposed development such as food shopping, employment or access to schools.
- The village of Loggerheads does have some services and facilities but it is 3km away and the lanes linking the site and Loggerheads are narrow rural lanes that are unlit and do not have pavements. As such, it is unlikely that future occupants would choose to either walk or cycle to this village on a regular basis, particularly during winter days or inclement weather when visibility would be limited.
- There is a bus service with a bus stop approximately 500m from the appeal site, this is mostly hourly during the day and finishes in the early evening. There is also no service on Sundays. Whilst this would provide residents with some choice, the limited services is likely to mean that future occupants of the proposal would be likely to choose to access services and facilities via the private motor car. Whilst Loggerheads may have a greater range of bus services available it is considered unlikely that

future occupants would choose to walk or cycle to that village to access the bus there for the reasons set out above. In all likelihood future occupants would be likely to choose to drive in their car and would be likely to choose to continue to their final destination in their car rather than opt to park in Loggerheads to take a bus.

- For these reasons it is likely that future occupants would be predominantly reliant on the car to access a range of services and facilities necessary to meet their day to day needs. Although future occupants may choose to utilise the limited services available in Ashley this can in no way be guaranteed and the extent to which this may directly maintain or enhance the vitality of services in the area is unclear in any event.
- Notwithstanding the proximity of other houses within the village to the appeal site, it is considered that it is not within a location where a range of goods and services would be accessible via sustainable transport modes. This is a factor that does not weigh in favour of the appeal proposal.
- The conclusions on this issue reflect the findings of several other Inspectors who have considered this issue specifically in relation to the village of Ashley. Whilst one appeal for a single dwelling in Ashley was allowed, that site was within the village envelope and the Inspector found that it would represent infill development and would accord with Policy H1 in this regard. Neither of those circumstances applies to the appeal proposal.
- Along with existing dwellings along the western boundary, there is a private rural lane bordering the northern edge of the site. Other than that the appeal site is surrounded by open fields bounded by hedgerows and hedgerow trees. The built extent of the village is clearly situated to the east of the site. The proposal would represent a definite visual encroachment into the open countryside beyond the defined built extent of the village. The proposal would not represent a logical extension to the village as dwellings in this location would not relate to the visual context of the area which is very much defined by its open, rural character. This factor is also something that does not weigh in favour of the proposal.
- However, whilst the Council has referred to the issue of precedent and several sites having come forward in a 'call for sites' exercise that are adjacent to but outside of the village envelope for Ashley, there is no firm evidence such as a formal planning application that indicates that other proposals may seek to rely on this proposal in the event that the appeal succeeds.
- The Council has also referred to the Framework's reference to avoiding new isolated homes in the countryside but as the houses within the village along the site's eastern boundary are visible from the appeal site, it cannot be described as isolated in terms of the ordinary meaning of that term for the purposes of the Framework.
- It is concluded that the proposal would not be in an accessible location and the proposal therefore conflicts with Policies SP1 and ASP6 of the CSS and Policy H1 of the LP and paragraph 78 of the Framework.

#### *Affordable housing and educational provision*

- Two of the Council's reasons for refusal included the lack of a signed S106 agreement regarding a financial contribution towards affordable housing and educational provision in the area. During the course of the appeal a signed copy of a S106 agreement was submitted by the parties which also referenced a sum for the maintenance of onsite Public Open Space. Whilst the appellant's concerns regarding the content of the document are noted, the appeal scheme would be capable of overcoming these two specific reasons for refusal. However, given the conclusion on the first main issue, this does not outweigh the harm identified above.

#### *Other matters*

- At the time the original application was determined by the Council, it acknowledged that they were unable to demonstrate an up to date five year Housing Land Supply (HLS) of deliverable sites in line with the requirements of the Framework. During the course of the appeal, this position changed with the Council now asserting that it is able to demonstrate a five year HLS. This is a matter of dispute between the parties.

- However, if it is concluded that the Council is unable to demonstrate a five year HLS and that policies SP1 and ASP6 of the CSS and Policy H1 of the LP should not be considered up to date, this matter would not outweigh the conclusion on the first main issue. This is because the contribution that 10 dwellings would make to any under supply situation would be limited and the principles of locating new development in locations that are accessible via a range of sustainable travel modes along with locating housing in rural areas where it will maintain or enhance the vitality of rural communities are consistent with paragraphs 102, 122 and 178 of the Framework.
- The appellant has identified several economic, social and environmental factors relevant to the appeal scheme and these have been taken into account. These are limited benefits that weigh in favour of the appeal proposal. There are also some neutral considerations that do not weigh in favour of the proposal. However, these limited benefits even taken together do not outweigh the harm identified in relation to the first main issue.

### *Conclusion*

- For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

### **Recommendation**

That the appeal decision be noted.