

APPEAL BY ANDREW LIGOCKI AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE ERECTION OF A DETACHED DWELLING AT THE LODGE, STATION ROAD, ONNELEY

<u>Application Number</u>	18/00641/OUT
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	1st May 2019

The Appeal Decision

The Inspector identified the main issue to be whether the appeal site is a suitable location for a dwelling having regard to local and national planning policy.

In dismissing the appeal the Inspector made the following key comments and observations:-

- Whilst Onneley is a loose knit settlement with no obvious centre, dwellings are generally concentrated around the junction with the main road. The appeal site, whilst accessed off Station Road, is located away from the concentration of dwellings, some distance from the junction with Newcastle Road within an area with a distinctly rural character. Whilst Station Road is not a through road, this does not mean that the entire road is within the settlement. Thus, it is not considered that the appeal site is within the settlement of Onneley.
- The appeal site is located outside a development boundary or village envelope and for the purposes of applying planning policy is located in the countryside. The proposal therefore conflicts with Policies SP1 of the Core Strategy and H1 and ASP6 of the Local Plan in this regard. The Council asserts that Policies H1 and ASP6 are out of date and has referred to an appeal decision, reference APP/P3420/W/18/3199376 (Gravel Bank), where, as a result the Inspector gave policies H1 and ASP6 limited weight. The Inspector in that appeal also makes reference to another appeal, reference APP/P3420/W/16/3149399 (Tadgedale Quarry), where the Inspector drew a similar conclusion. The Inspector agreed that the policies should not be given full weight in light of the above, however, the general thrust of the policies, which is to locate new development towards settlements with a range of facilities and access to public transport generally accords with the Framework and this is afforded significant weight.
- The appeal site has been the subject of a number of previous decisions. The Inspectors of both appeals considered the proposals against Paragraph 55 of the Framework (2012) which dealt with isolated homes in the countryside. Although the Framework has since been revised, Paragraph 79 has similar aims. The appellants have referred to the Braintree Court of Appeal decision. It is agreed that, in light of this judgement, given the proximity of other buildings the appeal site is not isolated and the restrictions set out in Paragraph 79 of the Framework do not therefore apply.
- The appellants assert that the appeal site, part of the garden of The Lodge, is underutilised and comprises brownfield land and have referred to the Dartford decision which found that only residential gardens within the built up area were exempt from the definition of previously developed land. Whilst the Framework states that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, as set out above, the appeal site is not within a settlement. Whilst the supporting text of Policy SP1 of the Core Strategy talks about prioritising brownfield land, the Policy itself seeks to secure targeted regeneration and states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling, amongst other things.
- Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of

rural communities. The site would be accessed by Station Road, a predominantly single track road with a lack of footpaths and very limited street lighting. Given this, it is considered that future occupants are unlikely to choose to walk to Onneley. This would be particularly the case for those with limited mobility, parents with young children or at night, or in inclement weather. Furthermore, whilst Onneley may have a small number of facilities, these are unlikely to meet the day-to-day needs of future occupants and as such, it is likely that future occupants would therefore seek to meet some of their day-to-day needs at Madeley which is located approximately 2.7km by road from the appeal site, or Woore, which is over 3km by road. It is also likely that it would be necessary for future occupants to travel further to access other facilities and services.

- Future occupants would be likely to be highly reliant on private car and whilst the appellants aim is to use an electric car, it would not be reasonable to impose a condition restricting car use in such a way, and therefore this is afforded negligible weight.
- Whilst the number of daily movements which would be generated by the appeal scheme would be modest, future occupants would have a limited choice of transport mode, contrary to the objectives of the Framework, and the overall aim of the Core Strategy to reduce the need to travel. This is a significant factor weighing against the scheme.
- The Inspector notes the concern raised by the appellants that the Council did not consider the proposed dwelling as a self-build plot. However, there is no substantive evidence that the appeal scheme would meet the definition of 'self-build and custom-build housing' and therefore negligible weight is afforded.
- For all the above reasons it is concluded that the appeal site is not a suitable location for a new dwelling. It would fail to enhance or maintain the vitality of rural communities and would conflict with the overall aims of the Core Strategy to locate new development within development boundaries and village envelopes. Thus, the proposal would be contrary to the Framework.
- Although the Council is able to demonstrate a five year supply of housing, as set out above, the policies of most importance in determining the application are out of date. In such circumstances, the Framework states 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 this Framework taken as a whole.
- The adverse impact of the unsuitable location of the site with poor access to local facilities and services, would significantly and demonstrably outweigh the very limited benefits associated with the provision of one additional dwelling. It was therefore concluded that the presumption in favour of sustainable development does not apply in this case.

Your Officer's Comments

This appeal decision is important in that the Inspector gives a further view on the weight to be attributed to policies within the Development Plan relating to the location of new housing. The Inspector agrees with the conclusions of the Inspectors determining the Gravel Bank and Tagedale Quarry appeals, that Policies H1 and ASP6 should not be given full weight. However, he also states that the general thrust of the policies, which is to locate new development with a range of facilities and access to public transport, generally accords with the Framework and he therefore affords this significant weight. He goes on to refer to CSS Policy SP1 stating that the Policy seeks to secure targeted regeneration and states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling, amongst other things. He concludes that the site would conflict with the overall aims of the Core Strategy to locate new development within development boundaries and village envelopes and thus, would be contrary to the Framework. It is to be noted that despite the above the Inspector in this case still went on to apply the tilted balance approach because he found paragraph 11(d) to be engaged i.e. he found it necessary to consider the proposal in the context of whether the harm associated with the development significantly and demonstrably outweighed the benefits of the

development. This appeal decision is a further material consideration to which your Officers will have regard in the determination of applications for new housing in the countryside.