
Appeal Decision

Site visit made on 20 July 2015

by Jonathan Hockley BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 August 2015

Appeal Ref: APP/F2415/W/15/3014897

Land at Old Charity Farm, Stoughton, Leicestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Mike Stone against Harborough District Council.
 - The application Ref 15/00144/FUL, is dated 2 February 2015.
 - The development proposed is the erection of 2 No. detached dwellings (Use Class C3).
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Decision

1. The appeal is dismissed and planning permission for the erection of 2 No. detached dwellings (Use Class C3) is refused.

Preliminary Matters and Main Issue

2. The appeal was made against the failure of the Local Planning Authority to give notice of their decision on the application within the statutory period. Subsequent to the making of the appeal the Council confirmed that they would have refused the application. I have treated the committee report and planning appeal statement as the decision the Local Planning Authority would have made, had they been empowered to do so.
3. The report states that the Council would have refused the application on three grounds; the principle of development in the countryside, effect on adjacent trees within a conservation area, and the effect on living conditions of future residents of the proposed Plot 2. Based on all that I have seen and read I have no reason to disagree with this analysis of the key issues.
4. Subsequently I consider the main issue in this case to be whether or not the proposal would provide a suitable site for housing, having regard to the principles of sustainable development, the effect of the proposal on the adjacent spinney of trees and the Stoughton Conservation Area, and whether the proposed development would provide acceptable living conditions for the future occupiers of Plot 2, with regard to outlook.

Reasons

5. Stoughton is a small village, centred on the intersection of two roads, Gaulby Lane and Thurnby Lane, marked by the church of Saint Mary and All Saints. Although the settlement is located reasonably close to Leicester and Oadby, the village has limited services, with the church and a village hall being the only community facilities in the settlement.

6. The road of Old Charity Farm is somewhat of an anomaly in the village, being a fairly modern development. The road is accessed at the eastern end of the village and arches round behind Gaulby Lane. The existing houses on the road are located at its western end. The proposal seeks to construct 2 houses on an area of agricultural land which is located between a tree spinney and the easternmost houses on the road. The proposed dwellings would be designed to match the rest of the estate and would be fairly substantial detached houses.
7. Although the site is located close to, and would be well related to Stoughton, the lack of community facilities within the village means that the proposed dwellings would in effect be somewhat remote. The appellant states that the church and village hall act as hubs for the community. I have no reason to doubt this, however the fact that there is no village shop, public house or other facilities means that potential residents of the dwellings would have to travel for virtually all of their day to day needs. I noted a bus stop on my visit; however, a regular bus service to the village appears to have ceased and the only connections to Leicester are via a dial a ride taxi service. This service runs 3 times a day in both directions, but only on demand – the service has to be pre-booked the day before travel and the last pre-bookable service runs back at just after 17:00.
8. The appellant notes the presence of a local bridleway and the description of a cycle club in the Parish Plan. Whilst walking and cycling is possible to the site, Gaulby and Thurnby Lanes are not particularly quiet and highway footpaths do not exist much beyond the edges of the settlement. Reference is also drawn to local broadband speeds and the potential for this to increase the relative accessibility of the site. However, despite this, I consider it unlikely that future residents would use sustainable modes to access their day to day needs, being far more likely instead to use private transport to access such services, facilities and employment.
9. The tree spinney lies within the Stoughton Conservation Area (SCA), and is prominent in views when approaching the village from the east and from Gaulby Lane, where it acts as the backdrop to the east end of the village. Plot 2 of the proposal is set reasonably close to the trees. The appellant has submitted a tree survey in support of their application. This survey notes that the spinney constitutes a crowded group of semi-mature trees with wide spreading un-balanced crowns that are read as one. The survey notes that the trees within the spinney have been unmanaged to the detriment of their long-term stability and are considered to be in declining condition. As such, the report states that from an arboricultural perspective it would be appropriate therefore to remove them in favour of suitable replacement planting. However, I note that the survey also states that the trees have a life expectancy of 20-40 years, a not inconsiderable time.
10. The survey includes a tree constraints plan indicating that the eastern edge of Plot 2's footprint would conflict with the root protection area of several of the trees in the spinney, noting that Plot 2 is approximately 5 metres from the base of the closest tree and that this dwelling is "likely to affect the stability of a number of stems". It seems to me therefore that there is little doubt that the development of Plot 2 would adversely affect the spinney, subsequently in due course to the detriment of the appearance of the SCA, to which the spinney makes a valuable contribution.

11. The appellant is of the view that a condition suggested by the Council in the event of an approval would satisfactorily address concerns regarding the effect of the proposal on the spinney. However, I do not agree that the condition would satisfactorily mitigate the harm that the proposal would cause. The erection of barriers around the RPA of the trees, as suggested by the appellant, would conflict with the eastern side of Plot 2.
12. Plan 4640/D2 shows the plot layout and crown spreads of the trees in the spinney. This shows that a number of trees would overhang the rear garden area of Plot 2, with one tree partially overhanging the east side of the house. Furthermore I noted on site the height of some of the trees in the spinney, particularly the pines which are stated to have an average height of 22m. Although the kitchen of this property would have sufficient daylight from a large rear window serving a breakfast area of the room, the proximity of the spinney to the kitchen window would adversely affect the outlook from the kitchen and would overhang the eastern side of the plot by up to 8m in places according to the survey. In this respect I agree with the Council that this may also lead to future requests to remove, thin or cut down the spinney to the detriment of the SCA.
13. It is agreed between the parties that the Council cannot demonstrate a five year supply of deliverable housing sites. Paragraph 49 of the National Planning Policy Framework (the Framework) states that in such cases relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the Framework states that where the development plan is out of date that permission should be granted for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when taken against the policies in the Framework as a whole, or specific policies in the Framework indicate that development should be restricted.
14. The proposal would generate positive economic effects, through the construction benefits of two houses and benefits in contributing towards the agreed local undersupply of housing. An increase in local residents would also bring benefits in social terms, through adding to the community and assisting local services. However, the unsustainable location of the development and the proximity of Plot 2 to the tree spinney and subsequent effect on the SCA would significantly and demonstrably outweigh these benefits in overall sustainability terms. In reaching this conclusion I have borne in mind paragraph 17 of the National Planning Policy (the Framework) and its guidance that planning should take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside, should actively manage patterns of growth to make the fullest possible use of public transport and walking, and should always seek a good standard of amenity for all future occupants of buildings, as well as the provisions of Paragraphs 132 & 134 of the Framework.
15. I therefore conclude that the proposal is not a suitable site for housing, having regard to the principles of sustainable development and the effect of the proposal on the adjacent spinney of trees within the SCA. I am also of the view that the proposed development would not provide acceptable living conditions for the future occupiers of Plot 2, with regard to outlook. The Council's report refers to various policies of the Harborough District Core Strategy 2006-2028, November 2011, which they consider that the proposal would be contrary to, including policies CS5, CS8, CS9, CS11 and CS17. I

have not been provided with copies of all these policies so am unable to reach a conclusion on them all. Nevertheless, the proposal would be contrary to Policy CS11, which states that the setting of heritage assets in the District will be protected, conserved and enhanced, and that development should be planned to encourage travel by a variety of modes.

16. For the reasons given above I conclude that the appeal should be dismissed and planning permission refused.

Jon Hockley

INSPECTOR