



Appeal Decision

Hearing held on 23 and 24 February 2016

Site visit made on 24 February 2016

by John L Gray DipArch MSc Registered Architect

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

Decision date: 14 April 2016

Appeal Ref. APP/P1615/W/15/3136129

Land west of Newent Lane, Huntley, Gloucestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Limited against the decision of the Forest of Dean District Council.
 - The application, ref. P1995/14/OUT, dated 18 December 2014, was refused by notice dated 15 April 2015.
 - The development proposed is residential development of up to 60 dwellings (Use Class C3), access, open space and associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with all matters save access reserved for future consideration. Before the hearing, the applicant sought to substitute a different access arrangement for that submitted as part of the application (in fact, one considered as part of a subsequently refused application). The suggested alternative to that was simply to treat access as a reserved matter. At the hearing, the Council expressed itself content with the latter approach.
3. Since there are two known access arrangements which do not raise any objection from the highway authority, and since a scheme with less detail could not prejudice anyone else who should have been consulted, I agreed that the appeal should be considered on the basis of an outline application with all matters reserved.

Application for costs

4. At the hearing, an application for a partial award of costs was made by Gladman Developments Limited against the Forest of Dean District Council. This application is the subject of a separate decision.

Main Issue

5. Reasons for refusal nos. 2 (the absence of a section 106 planning obligation to secure contributions to local infrastructure and services) and 3 (inadequate information on archaeological remains) having been satisfactorily resolved before the hearing, the sole main issue in the appeal is whether there is a need for housing in the District which is not significantly and demonstrably outweighed by the impact on the character and appearance of the surrounding

landscape and on the scale and character of the village of the development of the appeal site for housing.

Reasons

The site and its surroundings

6. The appeal site lies on the north side of the main A40 road, immediately west of Newent Lane, which presently provides a firm western boundary for the built-up area of Huntley. It is open land, falling gently to the north, and comprises two fields, separated by an almost central public footpath running towards the church and school some little distance to the west. There are several mature trees in the southerly field, in a line roughly parallel to the public footpath and protected by a tree preservation order. There are also trees alongside the stream which forms the westerly boundary of the site, affording a fairly firm visual indication of that boundary. Beyond that are open fields. To the north, Newent Lane turns roughly west to provide the northern boundary of the site, the trees alongside it largely obscuring views of the countryside beyond.
7. There are buildings along the southern side of the A40 opposite the appeal site, and, a little further west, an area of industrial/employment development beyond the junction with the A4136 road. The character and extent of those areas does not, however, suggest that the appeal site could or should be developed as a natural extension of Huntley. At present, the site appears more as an integral part of the wider countryside extending in an arc to the west.

The physical and visual impact of development

8. There is little doubt that the site could be attractively developed for housing, with retention of the existing trees (both on the site and along the western boundary) helping to give an early element of maturity to the scene. The context of the public footpath would change but its purpose as an access route need not be harmed. These factors do not, however, amount to an indicator that development would be appropriate on what is clearly countryside.
9. Huntley would originally have been a linear village. Nowadays, there is a substantial amount of housing development to the north of the A40 but little in the way of services and facilities. Using the Council's figure (because the number of houses in the village seems a better base line than the number in the ward), the proposal would represent an increase in the size of the village of about 15%, though it would still largely have the character of a suburban residential area; and, in terms of extending the linear nature of the village along the A40, the visual impression would be of rather more than 15%.
10. The appellant's list of the services and facilities available to villagers shows that few essentials are to be found within the village itself – primary school, village hall (offering early years care) and recreation ground, public house, church and, apparently beyond the defined eastern edge of the village, a petrol filling station with a small shop and an ATM. An hourly bus service gives access to a post office (4km away) and shops, library, health centre, pharmacy, bank, district centre and supermarket (all 7km or more away).
11. Summing up, the proposed development would intrude into the countryside/landscape setting of the village and detract from its character and quality. The additional housing would also reinforce the character of a village seemingly lacking the services and facilities one might expect to find in a settlement of

this size. Indeed, one may reasonably question the sustainability of adding significantly to the size of the village.

12. The effect on the settings of various listed buildings was considered as part of the application process. Nothing in the reasons for refusal relates to any harmful impact. The Built Heritage Assessment identified no harmful impact on the settings on the Church of St John the Baptist, Huntley Primary School, Huntley Court, the barn adjacent to Huntley Court or the Keeper's Cottage. It noted a "negligible impact" on the setting of Huntley Manor because of the limited inter-visibility between the site and the heritage asset; in fact, there is no inter-visibility and, accordingly, there would be no harmful impact on the setting of that building.

Planning policy

13. The adopted Core Strategy identifies Huntley as a 'service village'. It is one of 15 such villages, described at the hearing as having "some basic services", and in which new housing is likely to be small in scale. The Core Strategy anticipates 310 dwellings per annum (dpa) across the District and a total of about 283 over the whole of the Plan period in the service villages. It may be noted, purely as an indication of the general scale of intended development, that that equates to fewer than 20 dwellings in each village over the whole Plan period. That said, the figures in the Plan derive from the draft Regional Spatial Strategy (RSS) and thus cannot be considered to represent the objectively assessed need (OAN).
14. The emerging Allocations Plan is based on a review of the OAN and seeks to provide for 320 dpa. It defines a settlement boundary for Huntley, para. 24.2 noting that the Plan "enables only small scale development and retains a tightly drawn settlement boundary". Examination of the Plan took place shortly before the hearing into this appeal and a number of objectors to the Plan apparently argued that it could not provide for a 5-year housing land supply because the assessment of need upon which it was based was flawed.
15. The appellant argues that service villages such as Huntley are seen as an acceptable focus for housing. The word "focus" may be somewhat inappropriate. Core Strategy Policy CSP.4 says that new development must contribute to reinforcing the existing settlement pattern, something made abundantly clear in the tabulated distribution of housing in Policy CSP.5. The numbers of houses to be provided in the main settlements is to be compared with the 283 to be provided across the 15 service villages; in effect, the policy is accepting that some housing will be built away from the main settlements and that it would be appropriate to "focus" what is actually a small proportion of the total number of houses on those villages with at least some services.

Housing need and supply

16. Various recent appeal decisions have considered the housing need and supply position in Forest of Dean. Following the inquiry in November 2014 and February 2015 into appeal ref. 2218921 (Lydney), the Secretary of State was unable to conclude that the Council could show a robust 5-year housing land supply. At the hearing in February 2015 into appeal ref. 2222494 (Treona Garden Nursery, Corse), the Council accepted that it could not show a deliverable 5-year housing land supply. Then, at the inquiry in May 2015 into appeal ref. 2228466 (Chartist Way, Staunton), it argued that it could demonstrate an adequate land supply based on the need set out in the Core Strategy; on the evidence, however, the Inspector disagreed. At the inquiry in

June and July 2015 into appeal ref. 2228822 (Ross Road, Newent), the Inspector concluded that the OAN of 320 dpa was a constrained figure and that deliverable supply amounted to some 4.55 years. That decision has been quashed by the High Court and what it says cannot now be taken into account. At the inquiry in August 2015 into appeal ref. 3003662 (Gloucester Road, Tutshill), the Inspector expressed his reservations about the OAN of 320 dpa in the emerging Allocations Plan but concluded that, even at that level, the Council could not demonstrate a 5-year supply of deliverable housing land. That decision has been challenged in the High Court; however, the conclusions on housing are expressly not the subject of the challenge and, in any event, the decision remains lawful unless and until quashed.

17. The consistent conclusion in these decisions is that the Council cannot show a 5-year supply of deliverable housing land. In one sense, there has been no material change in circumstances since the most recent of these decisions. The examination into the Allocations Plan has now been held. There were objections to the OAN on which the Plan is based as well as to specific sites proposed for allocation. It is not yet known what the Inspector's conclusions on the objections to the Plan will be and, accordingly, the weight it can be given must remain limited (or "moderate", the word used by the Secretary of State in December 2015).
18. The Statement of Common Ground highlights the position. The Council's estimates of land supply (with a 20% buffer) are 3.91, 4.56, 5.12 and 5.60 years, depending on the document on which the OAN is based. Appendix 3 to the Statement of Common Ground is an agreed list of disputed housing sites. Sites allocated in the adopted Local Plan amount to a supply of 873 dwellings on the Council's estimates, 493 on the appellant's; the accompanying notes and discussion at the hearing suggest that delivery within five years would be unlikely to exceed around 550. Sites not allocated but committed amount to a supply of 500 on the Council's estimates, 450 on the appellant's; the Council's estimate may be slightly optimistic but can be given the benefit of the doubt. Sites newly allocated in the emerging Allocations Plan amount to a supply of 436 on the Council's estimates, 149 on the appellant's; although some of the sites have been discounted by previous Inspectors, the appellant's estimate seems unduly pessimistic and perhaps up to 300 dwellings may be assumed.
19. Thus, a total of around 1,250 dwellings from the sites in Appendix 3 might reasonably be allowed for rather than the Council's estimate of 1,759. Deducting the difference, 509, from the Council's highest estimate would leave supply at just 4.32 years. Even if this estimate is on the pessimistic side, it may be noted that a reduction of more than 240 on the Council's supply estimate of 2,227 dwellings would leave less than a 5-year housing land supply on the most recent Council estimate of OAN.

The Strategic Housing Land Availability Assessment (SHLAA)

20. The 2012/2013 SHLAA considered the appeal site an "ideal development site" for up to 83 dwellings (compared with the maximum of 60 applied for). That assessment, of course, is 'policy-off'; it may reflect some common sense but it is very broadly based – something which may perhaps be divined either from the number of dwellings, which may not take account of the protected trees, or from the assessment of the garden land north of Byfords Road, a little to the north-east of the appeal site. It may be possible to accept that the appeal site

is, physically, an “ideal development site” – but one must then consider whether that would be appropriate in the overall planning policy context.

Conclusions

21. Based on recent appeal decisions, the evidence to the hearing and the absence of any significant change in circumstances since the most recent appeal decision, it seems highly likely that the OAN assessed by the Council is less than robust but that, even if it were robust, there would still not be a 5-year supply of deliverable housing land. In terms of paragraph 49 of the National Planning Policy Framework (NPPF), that renders out-of-date the policies for the supply of housing in the adopted Core Strategy. It does not, however, indicate that those policies should be given no weight.
22. In this case, an examination into the emerging Allocations Plan has been held and the Inspector’s report is awaited. Given the imminence of the Inspector’s conclusions, that may be seen as a much more appropriate forum than a section 78 appeal hearing for consideration of the housing land supply presently contended as appropriate by the Council. In itself, that alternative forum may not be a compelling reason to dismiss this appeal – it does, however, limit the extent to which the weight to be given to the policies of the Development Plan should be reduced by virtue of their being out-of-date.
23. The appeal scheme conflicts with Core Strategy Policies CSP.4 and CSP.5 in that it would tend to divert housing development away from the settlements to which it should primarily be directed. It conflicts with Policy CSP.16 in that it is a far greater scale of development than generally envisaged for the service villages. Indeed, if allowed, the appeal scheme would provide, in one village, over a fifth of the total number of new houses anticipated in the 15 service villages over the whole of the Plan period – something which seems too great a concentration of development, potentially over a limited period, in one village. The appeal proposal must be seen as conflicting with the adopted Development Plan. The lack of a 5-year housing land supply may render the its policies for the supply of housing out-of-date but the imminent conclusions of the examination into the emerging Allocations Plan mean that general thrust of the Development Plan must still be accorded significant weight.
24. The proposal would also conflict with the “golden thread” of the NPPF in that it would not be sustainable development. It might be land easily developed in physical terms but it is not in the right place properly to support sustainable growth in the District; the scale of the development proposed is not in keeping with the extent of accessible services and facilities in the village or nearby; and development of the appeal site would neither protect nor enhance the surrounding natural and built environment. The proposal would thus fail the three dimensions (economic, social and environmental) of sustainability.
25. The appellant lists a number of benefits of the proposed development. Some – a high quality residential environment, a balanced mix of dwellings, the retention of existing landscape features, publicly accessible open space and local areas for play, pedestrian links, improved bus stop facilities, increased Council Tax revenue and New Homes Bonus, job creation over the construction period – would come either with any appropriate residential development anywhere in the District or should be expected of any acceptable scheme for this or any other site. The 24 affordable houses would certainly be a benefit – but their loss may be measured not absolutely but in terms of the delay in their provision within the District.

26. Summing up, the proposed development conflicts with Policies CSP.4, CSP.5 and CSP.16 of the adopted Core Strategy. My conclusion, contrary to the appellant's, is that this is not a sustainable location for development; there is little in the way of businesses, services and facilities that are easily accessible or that development could support. The benefits, such as they are, cannot outweigh the harmful impact development would have – both on the planned sustainable growth of the District and on the character and quality of the village itself and its landscape setting. Using the planning balance set out in paragraph 14 of the NPPF, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. Accordingly, the appeal should be dismissed.

John L Gray

Inspector

Richborough Estates

APPEARANCES

FOR GLADMAN DEVELOPMENTS LIMITED

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| Sarah Reid, of Counsel | instructed by Lucy Wilson, Gladman Developments Limited |
| Geraint Jones | Savills |
| James Donagh | Barton Willmore |
| Steve Lucas | Development Economics |
| Alastair Macguire | Aspect Landscape Planning |

FOR FOREST OF DEAN DISTRICT COUNCIL

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| Tim Sheppard, of Counsel | instructed by L Adams, Principal Solicitor for Forest of Dean District Council |
| Martin Hillier | Principal Planning Officer with the Council |
| Nigel Gibbons | Forward Planner with the Council |

INTERESTED PERSONS

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|-------------------|-------------------------------|
| Jennifer Eastwood | } |
| Mary Robinson | } |
| Zena Carter | } local residents |
| Michael Latham | } |
| Alan Wood | Chair, Huntley Parish Council |

DOCUMENTS

- 1 Statement of Common Ground.
- 2 Appeal decision APP/P1615/A/14/2218921.
- 3 Appeal decision APP/X1545/W/14/2224678.
- 4 Jennifer Eastwood's statement.
- 5 Third party correspondence received by the Council.
- 6 Annex B to Allocations Plan Interim Draft, 26 February 2015.
- 7 Forest of Dean Supply Sites, Feb 2016 Update.
- 8 Claim form re. appeal ref. APP/P1615/W/15/3003662.
- 9 Two emails of 18 February 2016 commenting on (then) suggested conditions.
- 10 Suggested conditions.
- 11 Plan of area showing views towards the appeal site.
- 12 Justifications by the District and County Councils of the contributions sought in the section 106 planning obligation.
- 13 Executed section 106 planning obligation.
- 14 Appellant's written application for a partial award of costs.
- 15 Council's written response to the costs application.
- 16 Wainhomes (South West) Holdings Limited v SSCLG and others, [2013] EWHC 597 (Admin).
- 17 Gladman Developments Limited v Wokingham Borough Council, [2014] EWHC 2320 (Admin).