The Planning Inspectorate

Appeal Decision

Inquiry held on 28, 29 & 30 April and 1, 6 and 7 May 2015
Site visit made on 6 May 2015

by C J Anstey BA (Hons) DipTP DipLA MRTPI

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

Decision date: 3 July 2015

Appeal Ref: APP/J3720/A/14/2227958
Land east of Rogers Lane, Ettington, Stratford on Avon, CV37 7SU.

- 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 Charles Church Developments Ltd. against the decision of Stratford on Avon District Council.
- The application Ref 14/00118/OUT, dated 14 January 2014, was refused by notice dated 12 August 2014.
- The development proposed is outline planning application with means of access from Rogers Lane to be determined (internal access, layout, scale, appearance, and landscaping reserved for subsequent approval) for the erection of up to 80 dwellings (Class C3), public open space, balancing pond and other ancillary and enabling works, together with the demolition of existing building on site.

Decision

1. The appeal is dismissed.

Preliminary matters

2. It is agreed between the two main parties that the Council is currently unable to demonstrate a 5 year supply of housing land. The Council accepts that the shortfall may be significant.

3. A signed Section 106 agreement was submitted during the Inquiry, relating to affordable housing, open space, drainage, healthcare, bus services, footpaths, libraries, sustainable travel packs and highways. During the Inquiry the South Warwickshire NHS Foundation Trust withdrew its request for a contribution to healthcare facilities and this is no longer a requirement of the agreement. Given the Section 106 agreement the Council accepts that the third reason for refusal is satisfactorily addressed. I consider that the signed Section 106 agreement is compliant with *paragraph 204* of the *National Planning Policy Framework (the Framework)* and *Regulation 122* of the *CIL Regulations 2010.*

4. The Council confirmed in its Statement of Case that refusal reason 4, which essentially related to the accessibility of Ettington, is withdrawn.

Main Issues

5. On the basis of the evidence presented at the Inquiry and my site visit I consider that there are two main issues in this case. These are:

    - the effect on the rural character and setting of the southern part of Ettington village; and
    - the effect on the special architectural and historic interest of Ryepiece Barn, which is listed Grade II.

Reasons

Description

6. Ettington is a village of about 400 dwellings located to the south-east of Stratford-on-Avon. It lies in an elevated position, astride the A422 (Banbury Road) which links Stratford and Banbury. The appeal site is an arable field and forms part of the open countryside adjoining the southern edge of the village. It is rectangular in shape and approximately 3.83 hectares in area.

7. The appeal site has a frontage to Rogers Lane, which leads southwards off Banbury Road. There is a thick hedgerow and various trees along the boundary with Rogers Lane and an agricultural access into the site from the lane. Along the north-western side of Rogers Lane there is existing residential development. Opposite the northern corner of the appeal site and across Rogers Lane is Ryepiece Barn, a Grade II listed building, now converted to a house. To the north east of the appeal site is an extensive grassed area where the village's community centre and associated parking and recreational facilities are located. Two football pitches lie to the east of the appeal site, whilst to the south-west is another field, and beyond that further fields. A public footpath crosses the appeal site and there are a number of other public footpaths in the vicinity.

8. The appeal scheme seeks permission for the construction of up to 80 dwellings on the site. Vehicular access, which is for determination at this stage, would be taken from Rogers Lane. The illustrative layout shows a landscaped balancing pond in the northern corner of the site and an informal play area in the southern corner. The proposed dwellings would be set back from the south-western boundary behind a landscaped area.

Planning policy

9. The *Stratford-on-Avon Local Plan Review 1996-2011 (LPR)* is part of the development plan for the area. As the Council is unable to demonstrate a 5 year supply of housing land all relevant policies for the supply of housing in the *LPR*, such as the dispersal and location of residential development, must be regarded as out of date and accorded very limited weight.

10. Saved *Policy PR.1 (Landscape and settlement character)* of the *LPR* is not a policy for the supply of housing as it is concerned with ensuring that new development respects, and wherever possible, enhances the quality and character of the local area. Any proposals that harm elements of the distinctiveness of a local area will not be permitted unless there is significant public benefit. Saved *Policy EF.14 (Listed Buildings)* is concerned with ensuring that development does not harm listed buildings and their setting.

11. In my view these two policies are broadly in line with the objectives of *the Framework* and therefore should be accorded some weight. However they need to be read in conjunction with the more recent guidance in *the Framework,* including the presumption in favour of sustainable development and the need to apply an overall balancing exercise. Careful account also needs to be taken of *the Framework's* approach to instances where harm to the significance of a heritage asset is identified.

12. The *Stratford-on-Avon Core Strategy (CS)* is currently the subject of Public Examination. The examining Inspector has issued an interim report outlining his concerns about the soundness of the submitted plan and advising of the additional work required. Amongst other things he considers that the 'Objectively Assessed Housing Need' should be re-visited and that the housing supply trajectory is 'tight.' Given this state of play with the *CS* and the associated uncertainty it would not be appropriate to attach significant weight to the policies in the *CS* in the determination of the current appeal.

Issue 1: Rural character and setting

13. I do not consider that the proposed development would have an unacceptable impact on the landscape of the wider area or harm medium and long distance views from the south. The site is often hidden by the existing land form and even when it is discernible the distances involved are so great that the impact would not be significant.

14. I have serious reservations, however, about the impact of the scheme on the local landscape and the setting of the village. I consider that the open nature of the appeal site and the trees and hedgerows along its borders make an important contribution to the pleasant rural setting of the southern part of Ettington. In my view existing built development in the area, including the community centre, the houses on Rogers Lane and the Ettington Chase Conference Centre, does not unduly impinge on the appeal site or detract from its important contribution to the local area. Rather than being self-contained and dominated by urban influences I found the site to be closely related to, and of a similar character to, the fields to the south and a sensitive and important part of the village's countryside setting. The field is visible from many local viewpoints, including from the community centre and its grounds, from Rogers Lane, and from various local footpaths, including the one that crosses the site. Consequently I consider that the site provides a soft and attractive edge to the village and positively contributes to the enjoyment and experience of those using the local footpath network.

15. The construction of up to 80 dwellings in this field would destroy its open nature and its important contribution to local character. In spite of the landscaping proposed and the proposed limitation of the height of the dwellings I believe the new development would appear prominent in the local landscape, particularly during the winter months, and cause unacceptable harm to the village's rural setting. As the development could not be successfully assimilated into the village the settlement edge would appear much harsher and more intrusive than it does at present from surrounding public viewpoints.

16. I have paid careful regard to the appellant's landscape evidence, including the LVIA and the other material submitted. I acknowledge that the landscape to the south of Ettington, of which the appeal site is a part, is not rare, or of exceptional quality, and is not subject to any national or local landscape

designation. However the site forms part of the wider open countryside to the south of the village and makes a significant contribution to the landscape character of the local area. Although the *Landscape Sensitivity Study (2012)* broadly accords with these findings my judgement is essentially based on my observations on site.

17. I am also concerned that the proposed development would seriously detract from the rural character and tranquil nature of that part of Rogers Lane lying between Ryepiece Barn and the western corner of the appeal site. The appeal scheme, in particular the proposed access and the associated visibility splays, would involve the loss of a significant part of the vegetation along the lane's south-eastern side. This would mean that the proposed houses in the north-western part of the appeal site would be readily visible throughout the year in views from Rogers Lane along the access road. In addition the widening and improvement of the existing footpath into the site opposite Ryepiece Barn would involve further change and be likely to lead to a loss of more vegetation from the lane. The formation of the access road to serve up to 80 dwellings would mean that a considerable amount of additional vehicular traffic would use this part of the lane through the day. As a result of these changes the character of this part of Rogers Lane would take on a suburban appearance and would be far less peaceful that it is at present. Any new planting along the visibility splays would not mitigate the visual harm identified, given that it would be set back and there would still be views into the site through the proposed access. The harmful visual impact of the scheme would be particularly pronounced when the hedges and trees are not in leaf.

18. I conclude, therefore, on the first main issue that the proposal would cause significant damage to the rural character and setting of the southern part of Ettington village. This brings the scheme into conflict with Saved *Policy PR.1 (Landscape and settlement character)* of the *LPR* and *paragraph 109* of *the Framework* which seeks to protect and enhance valued landscapes.

Issue 2: Setting of the Grade II listed Ryepiece Barn

19. Ryepiece Barn is an early C18th threshing barn, now converted into a house. It is the only example of an agricultural building of this type in the village of Ettington and an important link to the village's agricultural past. It is accepted by the two main parties that there would be no harm to the structure of Ryepiece Barn itself. However the Council argue that there would be harm to the barn's setting. Current planning legislation requires the decision maker to have special regard to the setting of a listed building. *Paragraph 132* of *the Framework* makes it clear that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation. It goes on to note that significance can be harmed or lost through development within the asset's setting.

20. I share the Council's view that the appeal site is an important part of Ryepiece Barn's setting and therefore the barn's significance. The historical evidence presented on behalf of the Council indicates that the barn and the appeal site were situated on the manorial lands of the Shirleys. As a result I consider it likely that this former threshing barn, which had doors opening out on to Rogers Lane, and the appeal site were used in conjunction with each other for growing and processing crops. Consequently I believe that there is a close historical and functional relationship between the two. The close visual relationship can be readily appreciated by those using the footpaths through

and around the appeal site and from Rogers Lane, particularly during the winter months. The construction of houses on the appeal site would mean that the barn would become isolated both physically and visually from the last remaining vestige of its agricultural surroundings. As a result the significance of the barn would be harmed. I do not believe that the proposed landscaped balancing pond in the northern corner of the site would mitigate the loss of the field or provide a comparable setting for the barn.

21. Although the nature of Rogers Lane has changed a great deal over time that part lying between Ryepiece Barn and the western corner of the appeal site retains the appearance of a rural lane. In particular the trees and hedgerows along the appeal site boundary provide an attractive and appropriate context for the barn. In views along Rogers Lane the barn nestles comfortably in a quiet part of the lane against either a foreground of backdrop of mature vegetation. As has been described under the first issue the proposed access arrangements and footpath arrangements would necessitate the removal of trees and hedges along this part of the lane. Furthermore there would be a concentration of a considerable amount of additional vehicular traffic using the new access. As a result the rural appearance and quiet ambience of that part of Rogers Lane near to the barn would be lost to the detriment of the setting of the barn.

22. The loss of the agricultural use and openness of the appeal site and the intended changes to Rogers Lane would harm the setting of Ryepiece Barn and therefore its significance. Having regard to the nature of these impacts and the high threshold required for 'substantial harm' I consider that the proposed development would lead to 'less than substantial harm' in terms of *the Framework*.

23. I conclude, therefore, on the second main issue that the proposed development by causing 'less than substantial harm' would fail to preserve the special architectural and historic interest of Ryepiece Barn. Consequently the proposal does not accord with Saved *Policy EF.14 (Listed Buildings)* of the *LPR.* Where a development proposal would lead to 'less than substantial harm' to the significance of a heritage asset *paragraph 134* of *the Framework* makes it clear that this harm should be weighed against the public benefits of the proposal.

Other matters

24. Local people have raised a number of other concerns including the impact on highway safety, traffic congestion, residential amenity, biodiversity, and the capacity of local services and facilities. However, having considered all the material before me, including the views of statutory authorities and the various reports submitted, none of these matters individually or cumulatively would be likely to cause overriding harm, and they are not, therefore grounds for dismissing the appeal. In particular I note that the Highway Authority has acknowledged that there would be no unacceptable impacts to the safe and free flow of traffic on Banbury Road or Rogers Lane. Although I have had regard to the emerging Neighbourhood Plan it can be afforded little weight given its early stage of preparation.

Overall planning balance

25. The Council cannot demonstrate a 5-year supply of deliverable housing sites and accepts that the shortfall may be significant. Consequently all relevant

policies for the supply of housing have to be regarded as out of date and accorded very limited weight. *Paragraph 14* of the *Framework* makes it clear that planning permission should be granted, where relevant policies in the development plan are out-of-date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

26. It is evident that there are various benefits associated with the appeal scheme and these need to be given substantial weight. *Paragraph 14* of the *Framework* makes it clear that sustainable development has three dimensions: economic, social and environmental. In my judgement the proposal would fulfil the economic role of sustainable development and would contribute to building a strong, responsive and competitive economy, by helping to ensure that sufficient land is available to support growth. There would also be associated economic benefits in terms of additional Council tax revenues and the New Homes bonus. With reference to the social dimension the scheme would contribute to boosting housing supply, by providing a range of sizes and types of housing for the community, including a number of much-needed affordable housing units.

27. As regards environmental considerations the site is reasonably well located in terms of accessibility to the various facilities in the village, including the community centre, shop and school. The development would help to support local services and facilities. For longer trips alternatives to the private car are available with bus services through the village. Indeed the Section 106 agreement contains a financial contribution to an improved bus service, as well as to other local services. The proposed land to be given over to public open space would also be of some recreational benefit and the proposed planting would increase biodiversity.

28. I have found, however, that in terms of environmental considerations there are also adverse impacts. In particular I have concluded that the proposal would cause significant damage to the rural character and setting of the southern part of Ettington village and by causing 'less than substantial harm' would fail to preserve the special architectural and historic interest of Ryepiece Barn. These findings bring the scheme into conflict with elements of local planning policy. I accept that new housing sites may need to be found in the District's local service villages, of which Ettington is one. However this does not rule out the need to pay careful regard to the environmental consequences of developing particular sites.

29. Consideration must therefore be given to whether the identified adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Given the statutory duty as regards listed buildings I am obliged to give considerable weight to the desirability of preserving the setting of Ryepiece Barn in carrying out the balancing exercise, even though I have found that the harm would be 'less than substantial.' In view of the recognition in *the Framework* of the need to protect and enhance valued landscapes I consider that the identified harm to the rural character and setting of the village should be given significant weight. When these adverse impacts are weighed together it is my firm view that they significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole. In view of

this finding the proposed scheme does not constitute sustainable development and therefore the *Framework's* 'presumption in favour' does not apply.

Overall Conclusion

30. My overall conclusion, therefore, is that the adverse impacts of the appeal scheme would significantly and demonstrably outweigh the benefits, when assessed against the policies in *the Framework* taken as a whole. As a result the scheme does not constitute sustainable development in terms of *the Framework.* Consequently there are compelling grounds for dismissing the appeal. None of the other matters raised, including the favourable officer recommendation and the various appeal cases referred to me, outweigh the considerations that have led to my decision.

Christopher Anstey

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Paul Shadarevian of Counsel	Instructed by the Council's Solicitor
He called:	
David Huskisson DipLA CMLI	David Huskisson Associates
Allen Firth BSc (Hons) MSc DipAH MSc (Dist.) DPhil	Conservation & Heritage Consultant
Philip Smith BA (Hons) Dip TRP MRTPI	Aitchison & Raffety Town Planning Consultants
Neil Hempstead BA (Hons) MPhil MRTPI (for discussion relating to conditions & Section 106)	Case Officer

FOR THE APPELLANT:

Peter Goatley of Counsel	Instructed by Charles Church Developments Ltd.
He called;	
Gary Holliday BA (Hons) MPhil CMLI	FPCR Environment & Design Ltd.
David Beardmore MSc MA Dip LD (Dist) Dip LArch (Dist) Dip UD Dip Bldg Cons FRTPI CMLI IHBC	Beardmore Urban
Peter Jones BSc CEng	RPS
Robert Linell BSc (Hons) MPhil MRTPI	Savills (UK) Limited
Kate Tait (for discussion relating to conditions & Section 106)	Charles Church Developments Ltd.

INTERESTED PERSONS:

Councillor Isobelle Seccombe	District and County Councillor
Bill Fletcher	Local resident and member of SHAPE
Simon Pipe	Local resident and owner of Ryepiece Barn
Lorraine Holtom	Vice Chair Ettington and Fulready Parish Council
Richard Smith	Member of Parish Council and SHAPE
Stephen Boreham	Local resident
Michael Terry	Local resident and Chair of SHAPE
John Witherford	Local resident
Nick Rawles	Chairman of the Ettington and Fulready Neighbourhood Plan Committee
Mel Duffy	South Warwickshire NHS Foundation Trust

DOCUMENTS

1. Council's letters of notification & list of persons notified.
2. Additions to Mr Firth's Proof of Evidence handed in by the Council.
3. Key to Mr Holliday's photographs handed in for the Appellant.
4. Statement by Councillor Isobelle Seccombe.
5. Ettington and Fulready Neighbourhood Plan update handed in by Mr Rawles.
6. Statement by the Warwickshire Branch of The Campaign to Protect Rural England.
7. South Warwickshire NHS Foundation Trust's rebuttal of Mr Clyne's Proof of Evidence.
8. Mr Clyne's rebuttal of Document 7 above.
9. Conservation Officer's comments on the appeal application handed in by the Council.
10. Letter from Brandon Lewis MP, dated 27 March 2015, relating to landscape character and prematurity in planning decisions handed in by the Council.
11. Forestry & Landscape Officer's comments on the appeal application handed in by the Council.
12. First version of draft planning conditions.
13. Appeal decision - Land off Dovehouse Drive, Wellesbourne (APP/J3720/A/14/2216615) handed in for the appellant.
14. Signed Section 106 Agreement.
15. Position Statement – 5 year housing land supply (May 2015).
16. Statement by Nick Rawles.
17. Statement by Lorraine Holtom.
18. Statement by Stephen Boreham.
19. Council's note on compliance of planning obligations sought handed in by the Council.
20. Second version of draft planning conditions.
21. Villager comments on draft planning conditions.
22. Villager comments on Section 106 agreement.
23. Third version of draft conditions.
24. Finalised list of conditions.
25. Appeal decision – Land off Bath Road, Leonard Stanley (APP/C1625/A/13/2207324) & associated High Court Judgement handed in for the appellant.
26. Various Historic England Documents handed in for the Council.
27. Council's statement addressing the tests for planning obligations.

PLANS

A. 1:1250 scale red-line site plan submitted with outline application (drawing no. 27).
B. 1:500 scale Masterplan Layout Revision B.

PHOTOGRAPH

1. Photograph handed in by Mr Fletcher