
Appeal Decision

Site visit made on 17 September 2014

by George Arrowsmith BA, MCD, MRTPI

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

Decision date: 20 October 2014

Appeal Ref: APP/H0738/A/14/2221934

Land off Poplars Lane, Carlton Village, Stockton-on-Tees

- 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 Mr Frank Andrew against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 14/0956/OUT, dated 8 April 2014, was refused by notice dated 20 May 2014.
 - The development proposed is the erection of a 3 bedroom bungalow.
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Procedural Matter

1. Although the application was in outline, approval was sought for means of access. All other matters were reserved.

Decision

2. The appeal is allowed and planning permission is granted for the erection of a 3 bedroom bungalow on land off Poplars Lane, Carlton Village, Stockton-on-Tees in accordance with the terms of the application, Ref 14/0956/OUT, dated 8 April 2014, subject to the following conditions:
 - 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby approved shall not begin until a scheme of finished floor levels has been submitted to and approved in writing by the local planning authority. The scheme shall detail existing land level and levels of nearby properties as necessary as well as the finished floor levels of the proposed bungalow. The development shall thereafter be carried out in accordance with the approved scheme.
 - 5) The bungalow hereby approved shall achieve a minimum of Level 4 of the code for sustainable homes unless otherwise agreed in writing by the local
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planning authority or any other equivalent Building Regulations equivalent at the time of the submission of the application for reserved matters.

- 6) No construction activities or deliveries shall take place except between the hours of 0900 and 1800 from Monday to Friday and 0900 to 1300 on Saturdays. There shall be no construction activity on Sundays or Bank Holidays.
- 7) The development hereby permitted shall be carried out in accordance with the 1:1250 location plan submitted with the application.

Main Issue

3. The main issue is whether the proposal would conflict with the objective of preserving the countryside.

Reasons

4. The appeal site is a paddock planted with young trees on the north side of Poplars Lane. Immediately to the north there is a modern housing development and to the east there is a general purpose outbuilding and a new portal frame machinery store. High Meadow farmhouse is to the south of these buildings on the opposite side of Poplars Lane. Further to the east, screened by a high hedge, are buildings and a storage compound belonging to Ripon Farm Services. These are so extensive that they cover an arc of about 90 degrees running from the north east to the south east of the appeal site.
5. Saved policy EN13 in the Stockton-on-Tees Local Plan says that development outside the limits to development may be permitted in certain restricted circumstances, none of which apply to the appeal proposal. It is common ground that the appeal site is outside the limits to development as defined in the local plan.
6. The appellant takes issue with the description of the site in the reason for refusal as being in the open countryside. The Council say that the term 'open countryside' is often used as a general term in relation to land outside development limits as opposed to land in countryside that is remote from settlements. To my mind the more important consideration is that the operative criterion in policy EN13 is "development outside the limits to development", wording that clearly includes the appeal site.
7. The appellant argues that the development would not be out of keeping with the character of the area. In itself this would not mean that the proposal complied with EN13. The policy requires that three of the classes of development potentially allowable outside development limits should "not harm the character or appearance of the countryside" but this criterion only comes into play when development falls into one of the three classes. As discussed above the appeal proposal does not fall into any of the allowable classes.
8. The appellant's third argument is that policy EN13 is no longer applicable in view of the Council's lack of a 5 year housing supply. The appellant supports his case by referring to paragraph 49 in the National Planning Policy Framework (NPPF), which says that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date

- if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
9. The Council accept that there is a shortfall in the deliverable 5-year housing supply in the Borough and that Carlton is a sustainable location for infill development. Moreover, the delegated report, on which the Council's case is based, accepts that the appeal proposal itself would constitute sustainable development because of the site's location on the edge of the village. Despite finding it sustainable the report says that the proposal cannot be classed as infill because the site is outside the development limits for the village. On this basis the Council conclude that the proposal is unacceptable because it does not fit into any of the classes of development allowed by EN13.
 10. The pivotal difference between the parties relates to the appellant's contention that EN13 is a relevant policy for the supply of housing in terms of the guidance in the NPPF and is therefore a policy that must be defined as out-of-date in the context of NPPF paragraph 49. The appellant supports this interpretation by describing EN13 as largely a locational policy, which covers all forms of development, including housing, and does not seek to define any environmental aspects of landscape character. The Council on the other hand describe EN13 as a policy which limits development in the open countryside and is not one for the supply of housing.
 11. In support of his interpretation the appellant refers to two legal judgements and five appeal decisions. Having regard to these other cases I am satisfied that policy EN13 is relevant to the supply of housing since any policy which seeks to restrict the locations where housing can take place must inevitably restrict its supply. I do not intend to comment on the appeal decisions beyond noting that the degree to which a policy of policies can be said to be 'for the supply of housing' as opposed to being merely relevant to the supply of housing is a matter of planning judgement depending on the circumstances of each case.
 12. I find the judgement in *Cotswold DC v SSCLG*[2013] EWHC 3719 (Admin) particularly helpful when it says at paragraph 72 (in relation to a policy restricting development outside development boundaries) "*Local Plan Policy 19 is a policy relating to the supply of housing (amongst other developments). It restricts development, including housing development. As the inspector correctly held, applying the Framework, Local Plan Policy 19 should be disapplied "to the extent" that it "seeks to restrict the supply of housing"*.
 13. In the present case, whilst EN13 restricts the supply of housing it also protects the character of the countryside. Insofar as it seeks to restrict the supply of housing, and in line with the Cotswold judgement, I consider that the policy is out-of-date and has little effect on my decision. However, insofar as it protects the undeveloped character of the countryside, it retains some validity to the extent that development outside development limits detracts from that character. It is therefore appropriate to consider how the appeal proposal affects the character of its surroundings.
 14. From my site visit I noted that, as the site is approached along Poplars Lane from the north west, it initially appears as a piece of open land within a loosely spaced group of buildings on the edge of the village. However, on continuing

eastwards past the site one becomes aware that the buildings and outdoor storage compound belonging to Ripon Farm Services lie behind the high hedge to the east of High Meadow farmhouse. In particular the storage compound, which at the time of my site visit contained a substantial amount of heavy farm machinery, extends well to the south of the appeal site. When considered in this wider context the triangle of land bounded by the existing housing, the Ripon Farm Services site and Poplars Lane appears sufficiently enfolded by the developed area to prevent the appeal proposal from detracting from the character of the countryside at the edge of the village.

15. The weight I give to policy EN13 is inevitably weakened by the lack of a 5-year supply of housing. In these circumstances the sustainability of the proposed development and the admittedly minor contribution it would make to housing supply count in its favour. Policy EN13 carries some residual weight to the extent that it protects the character of the countryside but in this instance, despite the site's location outside development limits, its development for a single bungalow would not lead to any significant harm to that character. In the absence of such harm I allow the appeal.
16. The Council refer to a decision to allow 900 houses at Wynyard, which has not been issued because a section 106 agreement has not been signed. I am not told how this would affect the overall housing supply position but I must decide the appeal in the light of the current position. I am also told that a 2010 review concluded that the appeal site should remain outside the development limit for the village. I am not told how this review was influenced by the housing supply position or how it is affected by the current shortfall. More importantly, the review has as yet no statutory force and therefore carries little weight in my decision.
17. I have read the appellant's reference to other decisions made by the Council but, since they do not affect my decision, it is unnecessary for me to comment on them beyond noting that I must determine the appeal before me on its own merits.

George Arrowsmith

INSPECTOR