



Ministry of Housing,
Communities &
Local Government

David Jones
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St. Georges Place
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Gloucestershire
G50 3PQ

Our ref: PCU/APP/G1630/W/3184272
Your ref: 13475

20 December 2018

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY R KEENE AND SONS
LAND SOUTH OF OAKRIDGE, HIGHNAM, GLOUCESTERSHIRE, GL2 8EF
APPLICATION REF: 16/00486/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of H Baugh-Jones BA (Hons) DipLA MA CMLI, who held a public local inquiry on 22-25 May 2018 into your client's appeal against the decision of Tewkesbury Borough Council to refuse your client's application for outline planning permission for the erection of 40 dwellings with all matters reserved except access, in accordance with application ref: 16/00486/OUT, dated 3 May 2016.
2. On 4 July 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed, and planning permission refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. On 26 October 2018, Government published "Technical consultation on updates to national planning policy and guidance", dealing with the calculation of Local Housing Need and other matters.

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6. On 12th November 2018 the “Joint Core Strategy Review: Issues and Options” consultation was published. This responds to the original JCS, which committed to an immediate partial review of the plan to deal with identified issues, including a housing shortfall in Tewkesbury.
7. While a number of the issues dealt with in both of these documents are relevant to this case, given both remain the subject of consultation and may not be the final position, the Secretary of State has made his decision here based on existing policy. The Secretary of State does not consider that this raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

Policy and statutory considerations

8. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case the development plan consists of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) 2017, saved policies of the Tewkesbury Local Plan (TLP) 2006, and the Highnam Neighbourhood Development Plan (NP) 2017. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR17-24.
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (‘the Framework’) and associated planning guidance (‘the Guidance’). The revised National Planning Policy Framework was published on 24 July 2018, and unless otherwise specified, any references to the Framework in this letter are to the revised Framework.
11. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Emerging plan

12. The emerging plan comprises the Tewkesbury Borough Plan 2011 to 2031. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. This plan is still at a very early stage of preparation and underwent a Preferred Options consultation between 10 October 2018 and 30 November 2018. Like the Inspector, and for the reasons set out at IR25 and 259, overall the Secretary of State considers that this emerging plan carries no weight.

Main issues

13. The Secretary of State agrees with the Inspector that the main issues in this case are those set out in IR197

Housing Land Supply

14. The Secretary of State has carefully considered the Inspector's assessment of housing demand and of housing land supply, as set out at IR198-221. For the reasons given in that assessment, he agrees with the Inspector's conclusions that 520 homes per year are required (IR209), and that, considering the definition of "deliverable" and "developable" in the glossary of the revised National Planning Policy Framework, the housing land supply is 3.99 years (IR220). He considers that, without a five-year supply of housing land, the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework, applies.
15. In the absence of a five-year land supply, and as set out at IR261-262, the Secretary of State agrees that there would be clear benefits to the proposal, including the provision of 40 new affordable and market homes and the creation of jobs during construction and afterwards through residual support for the local shop. He agrees with the Inspector that both the new homes and the economic benefits attract significant weight.

Character and appearance

16. The Secretary of State agrees with the Inspector at IR222 that the main issues to consider are the effect of the proposal on the settlement pattern, and the landscape and visual effects of the proposal.
17. In respect of the settlement pattern, for the reasons given at IR223-227 the Secretary of State agrees with the Inspector that Oakridge provides a definitive and robust edge between the settlement and open countryside, and that development would result in harm by disrupting the settlement pattern by extending the urban area into open countryside beyond a well-defined edge.
18. The Secretary of State notes that the site does not fall within a landscape subject to any specific designation for its character and/or quality (IR228). He agrees with the Inspector's assessment that the development would result in a change to the experience of travelling along Oakridge, and that the proposal would be very prominent from other foot and cycle routes (IR237). He has also agrees with the Inspector's conclusion that there would be no unacceptable effect on the historic landscape of Highnam Court (IR-238-241).
19. Taking all of the above into account, the Secretary of State agrees with the Inspector's conclusions (IR242-243) that there would be harm to the settlement pattern, the landscape and the way it is experienced, and that the proposal would not have sufficient regard for local distinctiveness or contribute positively to a sense of place. He further agrees that the proposal would therefore run counter to JCS policy SD6 and NP policy H2. He concludes that this carries very substantial weight.

Other matters

20. For the reasons given at IR244-255, the Secretary of State considers that matters relating to social wellbeing, provision of safe access, and the access to shops and services do not weigh against the proposal.

Planning conditions

21. The Secretary of State has given consideration to the Inspector's analysis at IR184-192, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

22. Having had regard to the Inspector's analysis at IR193-195, the planning obligation dated 4 June 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR195 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

23. The Secretary of State has taken into account the number of planning obligations which have been entered into on or after 6 April 2010 which provide for the funding or provision of a project or type of infrastructure for which an obligation has been proposed in relation to the appeal. For these reasons, the Secretary of State concludes that the obligations are compliant with Regulations 123(3), as amended.

24. The Secretary of State has considered whether it is necessary for him to refer back to parties in respect of regulation 123 prior to determining this appeal. However, the Secretary of State does not consider that the planning obligation overcomes his reasons for deciding that the appeal should be dismissed, as set out in this decision letter. Accordingly, he does not consider it necessary for him to do so.

Planning balance and overall conclusion

25. For the reasons given above, the Secretary of State considers that the proposed development is not in accordance with JCS policy SD6 (covering the protection of landscape character) and NP policy H2 (covering design and visual character) of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

26. As the Secretary of State has found that the local authority cannot demonstrate a five year supply of housing land, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.

27. The Secretary of State considers that the housing benefits of the proposal carry significant weight, and the economic benefits of the proposal also carry significant weight.

28. However, the Secretary of State considers the conflict with the development plan on matters of character and landscape impact to carry very substantial weight.

29. Paragraph 12 of the Framework states that where a planning application conflicts with a Neighbourhood Plan that has been brought into force, planning permission should not normally be granted. Although the Neighbourhood Plan does not allocate sites, meaning that paragraph 14 of the Framework is not engaged, or set a settlement boundary, it represents an expression of how the community wishes to shape its local environment, and is relevant to the assessment whether the appeal proposal is acceptable or not.
30. The Secretary of State considers that there are no protective policies which provide a clear reason for refusing the development proposed. However, taking into account the material considerations set out above, including that there is conflict with a recently made Neighbourhood Plan, he considers that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. He considers that there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
31. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

Formal decision

32. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses outline planning permission for the erection of 40 dwellings with all matters reserved except access.

Right to challenge the decision

33. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
34. A copy of this letter has been sent to Tewkesbury Borough Council and Highnam Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Andrew Lynch

Andrew Lynch
Authorised by the Secretary of State to sign in that behalf