
Appeal Decision

Site visit made on 11 January 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 25 January 2016

Appeal Ref: APP/L3245/W/15/3138356

Land at Aspen Grange, Weston Rhyn, Oswestry, Shropshire SY10 7TS

- 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 M Richardson (M Richardson and Partners) against the decision of Shropshire Council.
 - The application Ref 14/01654/OUT, dated 10 April 2014, was refused by notice dated 14 May 2015.
 - The development proposed is described as "outline application for residential development".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved. I have determined the appeal on this basis, treating the plan that shows the site layout as indicative.
3. Since the submission of the appeal the Council has adopted its *Site Allocations and Management of Development Plan* (SAMDev). The 'Final Comments' stage of the appeal process gave both parties the opportunity to address any implications arising from the adoption of this document. I have determined the appeal on the basis of the national and local policies as adopted at the present time.

Main Issues

4. The main issues in the appeal are:
 - Whether or not the proposal makes adequate arrangements for the disposal of foul drainage from the site; and
 - Whether or not the proposal makes adequate provision for affordable housing.

Reasons

Drainage

5. The appeal site is currently grazing land located to the south of housing on Brookfield Close and Aspen Grange. The village of Weston Rhyn has been classified as part of a Community Cluster within the recently adopted SAMDev
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- and Policy S14.2(xi) identifies the village as one that is suitable for new housing. In particular the SAMDev allocates part of the appeal site for housing development subject to, amongst other things, appropriate drainage design.
6. The appellant has acknowledged that to progress the development of the site a Hydraulic Modelling Assessment would need to be carried out with Welsh Water. He considers that this can be adequately controlled by way of a condition which could ensure that this is completed before any development takes place. Although the application was recommended for approval on this basis, the Council has expressed concern, based on experience elsewhere, on whether a condition would be sufficient to prevent development commencing.
 7. I note that the condition used by the Council previously required that no dwelling should be occupied until the scheme for the drainage had been approved. I accept that the wording of that condition would not be adequate to ensure that the drainage was adequately addressed before any development took place. Notwithstanding this, I consider that altering the wording of the condition to state that no development should take place until a drainage scheme has been approved by the local planning authority, would be sufficient to ensure that drainage matters were adequately addressed before any development starts on the site. Such a condition would also meet the requirements for conditions set out in the *National Planning Policy Framework*.
 8. As such, I consider that a condition can be used to ensure that the development adequately addresses the disposal of foul drainage from the site before any development commences. Therefore there would be no conflict with Policy CS6 and CS8 of the *Shropshire Core Strategy (adopted March 2011)* (SCS) which seek to ensure that there is adequate capacity and availability of infrastructure to serve any new development.

Affordable Housing

9. It is indicated that some of the dwellings within the site would be provided as affordable housing. This would be in accordance with Policy CS11 of the SCS and the *Type and Affordability of Housing SPD (adopted September 2012)* (SPD) which seek the on-site provision of affordable accommodation for all developments of more than 5 dwellings. However, I do not have an executed S106 agreement, or a signed Unilateral Undertaking, before me to secure the provision of this affordable housing on the site.
10. The requirement for an affordable housing contribution as set out in the above policy and the SPD is necessary to the acceptability of the development, is directly related to it, and is fairly related in scale and kind. As such, it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010, and the tests for planning obligations set out in the Framework. Without any mechanism before me which would secure the provision of the affordable housing, I am not satisfied that the proposed development would make adequate provision for affordable housing. Consequently, the proposal would be contrary to policy CS11 of the SCS.

Conclusion

11. Although I consider that a condition can be used to ensure that the development adequately addresses drainage on the site, the proposed

development would not make adequate provision for affordable housing. For this reason, I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR