
Appeal Decision

Site visit made on 26 January 2016

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 30 March 2016

Appeal Ref: APP/L3245/W/15/3139031

Pontesbury Hill, Pontesbury, Shrewsbury, Shropshire SY5 0YJ

- 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 R Pugh against the decision of Shropshire Council.
 - The application Ref 15/00494/OUT, dated 23 January 2015, was refused by notice dated 22 May 2015.
 - The development proposed is outline application for a single dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is in outline with all matters reserved for future consideration. With the exception of the site's location, I have regarded the information on the submitted drawings as indicative.
3. Since the application was determined, the Council has adopted the Site Allocations and Management of Development Plan (17 December 2015) (SAMDev Plan). Consequently policy HS3 of the Shrewsbury and Atcham Borough Local Plan, listed in the Council's reasons for refusal, no longer forms part of the development plan and I have not had regard to it in my consideration of the appeal.

Main Issue

4. The main issue in this appeal is whether the proposal would represent an acceptable form of development with due regard to the development plan strategy for the location of housing and the Council's housing land supply (HLS).

Reasons

5. The appeal site comprises a small part of a large agricultural field that abuts Pontesbury Hill which is a road leading south from the main part of Pontesbury village. The area around the site is formed by a pocket of residential development bound to the main body of the village by a loose ribbon of dwellings. The site is not allocated for housing in the SAMDev Plan and it lies outside the village development boundary.
 6. Pontesbury, in combination with the nearby settlement of Minsterley, forms a Key Centre as set out in the schedule to SAMDev Plan policy MD1. This policy
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is concerned with the scale and distribution of development, setting out that it will be supported in Shrewsbury, the Market Towns and Key Centres, and the Community Hubs and Community Cluster settlements identified in the accompanying schedule to the policy. However, the policy includes a requirement for development to also accord with policies CS2, CS3 and CS4 of the Adopted Core Strategy (2011) (CS) along with other relevant SAMDev Plan policies including MD3.

7. Policy MD3 supports the development of allocated sites but also allows for other sustainable development, again with regard to the aforementioned CS policies but also including policy CS5. SAMDev Plan Policy MD3 further requires development to be in conformity with policy MD7a that seeks to limit development in accordance with the scale and distribution requirements set out in policy MD1 and also CS policy CS11 that seeks to reduce travel by car, respect the local context and balance the size, type and tenure of the local housing stock.
8. CS Policy CS4 seeks to increase the sustainability of rural communities by focusing development in the Community Hubs and Community Clusters set out in the SAMDev Plan. The policy allows for development against the terms of CS Policy CS6 that sets out a number of sustainable development principles including those related local context and character, but restricts it where the terms of policy CS5 would not be met.
9. The appellant does not dispute that the site is outwith the village development boundary but argues that this does not necessarily preclude its development for the scheme proposed given the terms of SAMDev Plan Policy MD3 and CS Policy CS5. It is clear that Policy MD3 permits development on sites outside development boundaries but the qualification is equally clear that this is only in the circumstance where the settlement housing guideline (the guideline) appears unlikely to be met. This guideline is contained within SAMDev Plan Policy S12 that sets out the numbers of dwellings proposed on allocated sites.
10. However, there is nothing in the evidence before me to suggest that the guideline would not be met. I recognise that the guideline is not a maximum figure. However, the supporting text to SAMDev Plan Policy MD3 clearly sets out that the guideline figures within SAMDev Plan Policy S12 are based on detailed considerations of the level of development considered to be sustainable and appropriate during the plan period.
11. The supporting text to SAMDev Plan Policy MD3 also sets out that a positive approach will be taken to development on sites that may lie outside the settlement development boundaries where it would accord with the relevant settlement policy. However, from my reading of the text, this is only engaged in the circumstance where the Council cannot demonstrate a 5 year supply of deliverable housing sites – the housing land supply (HLS).
12. The Council has stated that it can demonstrate a 5 year HLS and has provided two documents to support this view. The Five Year Housing Land Supply Statement provides data to 31 March 2015 but has since been updated (November 2015). Consequently, that latest position suggests the Council's HLS to be 5.53 years. Reflective of the Framework's requirements, a 20% buffer is included in the figures based on the recognition that there has been a persistent under-delivery of housing. The appellant does not concur with the

Council's view in relation to its HLS but has not provided any evidence that leads me to question that a 5 year HLS exists.

13. Nevertheless, within the HLS calculations, there is some reliance on windfall sites. Planning Practice Guidance¹ (PPG) sets out that this approach may be justified if the Council has compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply.
14. The importance of windfall development is recognised in the supporting text to SAMDev Plan Policy MD3. Notably, it states that this relates to development both within settlements and in the countryside including greenfield sites where this would be sustainable, but goes on to say that regard must be had to the policies of the Local Plan. Moreover, the allowance for windfalls is made only in years four and five of the supply and even then these are to be on brownfield land and in agricultural conversions of less than five dwellings. Consequently, windfall schemes are not necessarily acceptable on sites outwith the development boundary.
15. Moreover, CS Policy CS5 seeks to exert strict control over development in the countryside and Green Belt. Whilst this policy pre-dates the National Planning Policy Framework (the Framework), it nonetheless broadly accords with the principles set out in paragraph 55 although it does not refer to *isolated dwellings in the countryside* as the Framework does.
16. My attention has been drawn to a number of previous permissions, of which one scheme (ref 13/04409/FUL) borders the site and another (ref 14/02981/OUT) is located directly opposite. However, I do not have full details of the circumstances that led to these permissions and therefore afford this argument only limited weight.
17. For the above reasons, I consider that the proposal would undermine the delivery of the Council's strategy for the delivery of housing set out in the development plan, thus being an unacceptable form of development. Accordingly, the proposal would be in overall conflict with CS Policies CS4, CS5, CS6, CS11; SAMDev Plan Policies MD1 and MD3; and with the Framework.

Other matters

18. I have had regard to the supporting text to SAMDev Plan policy S12 with regard to the setting of the Shropshire Hills Area of Outstanding Natural Beauty (AONB). In making my decision, I must have regard to the statutory duty to conserve and enhance the AONB. Pontesbury Hill rises out of the settlement, which allows for views towards and from the AONB. However, the proposed development would be modest and in views from the AONB, it would be viewed against the backdrop of other surrounding dwellings. Further, its visual effects could be successfully mitigated by suitable planting around the western site boundary. On balance, I am satisfied that the proposal would not harm the setting of the AONB, and its natural beauty would be conserved.
19. CS Policy CS11 requires all new open market housing to make appropriate contributions to the provision of local needs affordable housing. The detailed requirements for such contributions are set out within the Council's Type and Affordability of Housing Supplementary Planning Document (2012) (SPD) and it

¹ Housing and economic land availability assessment Paragraph: 24 Reference ID: 3-24-20140306

is clearly envisaged that this will be by means of a planning obligation. The appellant has submitted a Unilateral Undertaking (UU) that makes provision for an off-site contribution to affordable housing and I am satisfied, based on the evidence in relation to the SPD's provisions, that the proposed contribution would meet the tests in Framework paragraph 204. Nevertheless, whilst I note the SPD requirement for an affordable housing contribution and the appellant's willingness to provide it, I do not have a signed planning obligation before me. However, as I have found against the proposed development on the main issue, I do not need to consider this matter further.

20. The proposal would provide for additional outdoor amenity space for the neighbouring, recent development. At my site visit, I noted the limited amount of space around this dwelling. The proposal would therefore result in an enhancement to the living conditions of the neighbouring occupiers. In my view, this represents a benefit of the proposal that weighs moderately in its favour but not sufficiently so that my concerns on the main issue would be overcome.

Conclusion

21. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector