



Appeal Decision

Site visit made on 18 May 2016

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

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

Decision date: 27 May 2016

Appeal Ref: APP/L3245/D/16/3141221

Land adjacent Castle Meadow, Linney, Ludlow, Shropshire, SY8 1EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Badlan against the decision of Shropshire Council.
 - The application Ref 15/00459/FUL, dated 30 January 2015, was refused by notice dated 22 September 2015.
 - The development proposed is earth sheltered low-impact dwelling on unused scrub land.
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is a roughly rectangular area of land which slopes steeply down from the Linney above. The latter is a relatively narrow road, made more so by cars parked along much of its length near the site. The site lies adjacent to and outside the development boundary for Ludlow. It is in the Ludlow Conservation Area and on the lower slopes of the hill on which Ludlow Castle was built. In views from the north it forms part of the setting of the castle and the Town Walls, both Scheduled Ancient Monuments, and St Laurence's Church, a Grade I listed building.
4. I consider that the following policies of the Shropshire Local Development Framework Adopted Core Strategy 2011 (the Core Strategy) are relevant in this case. Policy CS3 provides for housing and employment development within the development boundaries of market towns, such as Ludlow, which respects the distinctive character of each town and in the case of Ludlow, its historic character. Policy CS5 aims to exercise strict control over new development in the countryside.
5. Policy CS6 encourages high quality design to achieve high standards of resource and energy efficiency and an ability to adapt to climate change, and an environment which respects and enhances local distinctiveness. It also seeks to ensure that all development protects, restores, conserves and enhances the natural, built and historic environment. Policy CS17 relates to the protection and enhancement of the natural and historic environment.

6. These policies pre-date the National Planning Policy Framework (the Framework), but are consistent with it in focusing new housing development, encouraging high quality design and sustainable development and protecting and enhancing heritage assets.
7. Since the Council determined the application it has adopted its Sites Allocations and Management of Development (SAMDev) Plan (December 2016). This sets out the Council's up-to-date policies including those of relevance in this appeal, namely the development strategy for Ludlow in policy S10, and its policies relating to sustainable design, MD2, and the historic environment, MD13.
8. Policy S10 sets out where new housing will be delivered within Ludlow, together with allowance for additional infill and windfall development within the town's development boundary. It further states that all development should protect, conserve and enhance the setting and significance of the historic core of the town and recognise the national and international significance of Ludlow Castle.
9. Policy MD2 expands on Core Strategy policy CS6 in requiring development, among other things, to protect, conserve and enhance the historic context and character, significance and setting of heritage assets. It also encourages the use of contemporary design solutions, the use of sustainable drainage techniques and suitable landscaping.
10. Policy MD13 builds on Core Strategy policies CS6 and CS17 to ensure that proposals avoid harm or loss of significance to heritage assets and their settings, and where there would be harm, this would only be justified if public benefits outweigh that harm.
11. The proposal is for a three bedroom dwelling over two floors, set into the slope and earth covered. The submitted plans indicate that the existing level of the land would be built up in a mound with a higher profile than the existing slope, which would be levelled off towards the top to meet the level of the road.
12. The visible section of the accommodation, that is, the glazed section of the upper floor and a smaller part of the glazing to the lower floor would appear as an elliptical shape a short distance below the foot of the existing hedge/fence on the boundary with the road. This visible section would be up to 9 metres wide and 3-5 metres high and set in from the front face of the mound at a maximum of approximately 4.5m.
13. At the time of my visit, the sloping part of the site was covered in grass with a variety of wild flowers and weeds. It was not unduly overgrown and has a natural semi-rural appearance. There was an assortment of building and other materials scattered along the lower, flat part of the site which gave it a somewhat untidy appearance. When viewed from the north, the site forms a distinct break with the built up area to the east and has a natural semi-rural appearance forming a transition to the wooded slopes around the castle and the trees along the Linney above.
14. The appellant argues that the proposal would amount to a 'windfall' development on an infill site which would contribute to the Council's five year housing in accordance with paragraphs 48 and 49 of the National Planning Policy Framework (the Framework). The recently adopted SAMDev Plan clearly defines the development boundary for Ludlow. The site lies outside it and the

proposed new dwelling would be contrary to Core Strategy policies CS3 and CS5 which restrict development to within the development boundary and exercise strict control over development in the countryside outside settlements. It would also be contrary to SAMDev Plan policy S10 which sets out in more detail the Council's housing allocations for the plan period and which refers to windfall sites within the existing town boundary.

15. Although there is a reference to the consideration of windfall development in the delivery of housing in paragraph 3.18 of the explanation to policy SAMDev Plan MD3, it is also stated both within that paragraph and the policy itself that this should be done having regard to the policies of the local plan. Similarly, policy MD1, which relates to the scale and distribution of development, states that sustainable development will be supported in the Market Towns, again having regard to policies including CS3 and S10.
16. In my opinion, the emphasis in these policies is on focusing housing development in the allocated sites and within settlements, and additional sites outside settlement boundaries would only come into play if the housing guideline is unlikely to be met or there were other over-riding material considerations. As the SAMDev Plan has only very recently been adopted and sets out the Council's policies for meeting its housing needs, I see no reason to allow the development of sites outside those allocated in the policies unless there would be a clear public benefit which outweighs the policy considerations.
17. I conclude that the proposal would harm the character and appearance of the area insofar as it would extend development to a site outside the development boundary and fail to respect locally valued character. It would be contrary to Core Strategy policies CS3 and CS5 and SAMDev Plan policies S10 and MD2.
18. The site lies approximately 150 metres from the nearest edge of the town centre and its shops and other facilities. In this respect it is in a sustainable location in terms of reducing the need to travel by car for such services. The proposal would be constructed of energy efficient materials. The provision of one new dwelling would make a small contribution to the overall housing stock in Shropshire and consequently a small beneficial impact on the long term social and economic quality of Ludlow.
19. On the other hand, the site is within the setting of Ludlow Castle, which is a heritage asset of high significance both nationally and internationally. It is also within the setting of two other heritage assets, the Town Walls and St. Laurence's church, also of high significance, and it is within the Ludlow Conservation Area.
20. The appeal site is in a transition zone between the built up area of the town, which has gradually extended westwards along the side of the hill below the Town Walls, and the wooded slopes below the castle. The latter occupies a very prominent position in views from the sports fields on the plain below and the walls and church are also clearly visible as a backdrop and frame to the skyline. Views are partially obscured in places by the netting of the tennis courts and some trees. Further development westwards beyond the most recently constructed house (Castle Meadow) has been resisted in the recent past by the Council and Historic England, and in my view, the confirmation of the town

boundary in the SAMDev Plan reinforces the Council's previous policy that the area west of town should be protected from further development.

21. I have given careful consideration to the visual impact of the proposal on this sensitive area and to the appellant's analysis of the townscape and heritage setting. The construction of a new dwelling would alter the character of the area by extending development into what at present appears as a natural, undeveloped part of the hillside. The extensive earthworks would alter the natural slope of the bank and introduce an artificial looking mound with a somewhat alien flatter area over the roof just below road level.
22. Although it would have a lower profile than the immediate neighbour to the east, it would still be visible because of its location above the valley floor. The impact of the development would not be as marked as that of a conventional dwelling because of its earth cover and I accept that the impact could be reduced by new landscaping. However, the latter would take a long time to mature and I am not wholly persuaded that it would be effective. The site is raised above the low lying plain and the eye would be drawn to it against the backdrop of the town walls.
23. I consider that the proposal would not meet the tests in the Framework for the conservation of heritage assets. The castle, walls and church are all assets of great importance and great weight must therefore be given to their conservation. The proposal would not enhance their significance and the present natural appearance of the site is in keeping with the wooded surroundings and causes no harm. Although the proposal would not cause substantial harm, I consider that the harm it would cause to the historic environment would not be outweighed by the limited public benefit to the social and economic well-being of the town of a new single dwelling.
24. I conclude that the proposal would harm the character and appearance of the area because it would fail to protect, conserve or enhance the setting of important heritage assets. In this respect it would be contrary to Core Strategy policies CS6 and CS17 and SAMDev Plan policies S10, MD2 and MD13.
25. The appellant has drawn my attention to appeal decisions relating to housing developments outside Ludlow and at West Felton, but their circumstances are very different from this case. Those two sites are for much larger scale development than that proposed here and were considered to deliver greater benefits than would be the case in this instance. The decisions addressed the Council's housing strategy at some length, but in each case, although they took account of the emerging SAMDev Plan, the appeals were determined before it was adopted and the presumption in favour of sustainable development expressed in the Framework took precedence. The proposals were considered to be sustainable in social and economic respects and both were found to be in areas which had no conservation restrictions or designated landscape of value and therefore were acceptable in environmental terms.
26. On balance, I do not consider that the provision of one small dwelling would result in significant public benefits sufficient to overcome the fundamental objection in principle to new development outside development boundaries. The harm to the setting of highly significant heritage assets adds further weight

against the appeal. Although I have found the site to be in a sustainable location, this is insufficient to outweigh the other considerations.

27. The Council refers in its appeal statement to Core Strategy policy CS11 which requires a contribution to affordable housing. It has introduced this at a late stage and has put forward no supporting documentation other than the policy. I note the appellant's willingness to make a contribution, but since I have found the proposal unacceptable on other grounds, I have not addressed this matter any further.

28. In determining this appeal, I have given careful consideration to all representations made and all matters raised and none of them outweigh my findings on the main issue. I have determined it on its own merits in the context of local and national planning policy. I conclude that the proposal would harm the character and appearance of the area and the setting of the heritage assets in particular and that it would be contrary to Core Strategy policies CS3, CS5, CS6 and CS17, SAMDev Plan policies S10, MD2 and MD13 and the Framework.

29. For the reasons given above, I conclude that the appeal should not succeed.

PAG Metcalfe

INSPECTOR