

Appeal Decision

Site visit made on 9 May 2016

by **S D Harley BSc(Hons) MPhil MRTPI ARICS**

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

Decision date: 9 June 2016

Appeal Ref: APP/L3245/W/16/3143403

Belair, Watling Street, Berrymill, Craven Arms SY7 8BX

- 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 and Mrs A Anthony against the decision of Shropshire Council.
 - The application Ref 15/00359/FUL, dated 26 January 2015, was refused by notice dated 15 September 2015.
 - The development proposed is dwelling, formation of vehicular and pedestrian access and septic tank/land drains.
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Procedural Matters

1. The Site Allocations and Management of Development, Development Plan Document (the SAMDev) was adopted in December 2015.
2. The red line showing the planning application site has been reduced in size as described in the footnote to the Grounds of Appeal and as shown on the plan provided at the site visit. I have considered the appeal on this basis.

Decision

3. The appeal is allowed and planning permission is granted for a dwelling, formation of vehicular and pedestrian access and septic tank/land drains at Belair, Watling Street, Berrymill, Craven Arms SY7 8BX in accordance with the terms of the application Ref 15/00359/FUL, dated 26 January 2015, and subject to the conditions set out in the attached Schedule.

Main Issue

4. The main issue is whether the site is suitable for residential development having regard to the Development Plan and the principles of sustainable development.

Reasons

5. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission is determined in accordance with the Development Plan (DP) unless material considerations indicate otherwise. The DP for the area now consists of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (the CS) and the SAMDev. The National Planning Policy Framework (the Framework) is a material consideration. The evidence before me indicates that the Council can demonstrate a five year supply of deliverable housing sites and I have no reason to suppose the DP is out of date. The evidence suggests there is a substantial degree of reliance on
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windfall sites to enable the delivery of housing in accordance with the CS and the SAMDev.

6. The Framework seeks to significantly boost the supply of housing and both the Framework and Policy MD3 of the SAMDev contain a presumption in favour of sustainable development. The Framework defines sustainable development as satisfying environmental, social and economic dimensions. The environmental dimension includes protecting our natural, built and historic environment.

Environmental dimension

7. The site is in the countryside. Policies CS1, CS4 and CS5 of the CS seek to direct residential development to within town development boundaries, to allocated sites and to Community Clusters and Hubs and to strictly control new development in the countryside. Policy CS5 goes on to limit new housing in the countryside to that needed to house essential rural workers, affordable housing to meet local needs and conversion of existing buildings. The proposed dwelling would be for the appellants to avoid the need for institutional care for their son who has a severe disability. It would also, as a windfall site, in a very limited way add to the overall supply of housing.
8. Paragraph 17 of the Framework recognises the intrinsic character and beauty of the countryside as a core planning principle and Policy CS5 of the CS seeks to protect the character of the countryside. The appeal site is part of the open garden area associated with the appellants' house, Belair. The site is a rectangular plot in a short ribbon of dwellings fronting the line of the old Roman road, Watling Street, now a truncated spur off the A49 trunk road (Shrewsbury Road).
9. Open countryside lies to the west and east of the Watling Road properties. The area currently has a rural character although along the Shrewsbury Road are two sites designated as employment areas by Policy S7.1b of the SAMDev. Mature hedgerows with interspersed trees form the main boundary treatment for the adjacent dwellings.
10. There would be some harm to the openness of the countryside as a result of the proposal. However, the site is physically and visually well contained within the existing row of buildings and the development would read as part of this group. It would not protrude into the countryside, encroach onto cultivated agricultural land or appear unduly prominent within the landscape. Accordingly, the harm to the character and appearance of the countryside would be limited.
11. There is a large Oak near to the site which is the subject of a Tree Preservation Order and a copper beech within the site. The proposed dwelling would be positioned so as to avoid undue disturbance to the trees.
12. The Council raises no objection to the scale, form and massing of the proposed dwelling which is considered to be well scaled, appropriate in the location and in accordance with Policy CS6 of the CS which requires a high quality of design. I have no reason to come to a different conclusion.
13. For the above reasons I conclude that, although the proposed development would have some harmful effect on openness, it would not unacceptably detract from the character or appearance of the area. It would therefore not

- conflict with those aspects of Policies CS3 or CS5 of the CS; Policy S7.1 of the SAMDev or the Framework that seek to protect the countryside.
14. The appeal site is about 1km north of Craven Arms which is identified as a market town/key centre in Policy MD1 of the SAMDev and is a designated primary growth point. Although not directly adjoining the Craven Arms settlement it is about 1km south of the Grove, a main employment area for Craven Arms. Close by are the sites EL R053 and EL R055 designated as employment areas by Policy S7.1b of the SAMDev. There is a bus route along the A49 with a bus stop close to the Watling Street junction. There is a public footpath which links Craven Arms with the Grove employment site.
 15. Planning permission has been granted for a dwelling adjoining the appeal site in part of the garden of the Larches Ref 14/02915/OUT. The Officer report in relation to the Larches planning application states there are numerous services, facilities and employment opportunities available within comfortable walking distance and Council Officers identified the Larches site as sustainable in February 2015. From what I saw at my site visit this appeal site is as accessibly located as the Larches site, whether or not the position with regard to housing land supply has changed.
 16. I acknowledge that the site is not within the Craven Arms settlement boundary. However, it is not isolated and, for the reasons set out above, I conclude there would be reasonable access to services and facilities without undue reliance on the private vehicle. Accordingly the proposed development would not conflict with those aspects of Policies CS3 and CS5 of the CS; Policies MD1 and MD7a of the SAMDev or those principles of the Framework that require development to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced.
 17. Taking all the above strands together on balance I conclude that the proposal meets the environmental dimension for sustainable development.

Social and economic dimensions

18. Originally the appeal was accompanied by a signed Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 providing for a contribution towards affordable housing to meet the requirements of Policy CS11 of the CS. This was withdrawn following a decision by the Court of Appeal which upheld the appeal of the Secretary of State against a previous High Court judgement of 31 July 2015¹ in relation to planning obligations and affordable housing and tariff style contributions². The most recent decision supports national policy as set out in the Written Ministerial Statement of 28 November 2014 which exempts sites of 10 or less dwellings from affordable housing obligations. This is a material consideration of substantial weight and warrants a decision other than in accordance with Policy CS11. Accordingly I give the absence of an obligation providing for affordable housing no weight in this appeal.

¹ West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government CO/76/2015 [2015] EWHC 2222 (Admin)

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

19. To the extent of future occupiers using local facilities the proposal would assist to a small degree in maintaining the services and facilities in Craven Arms. The proposal would make a limited contribution to the local economy during construction; could be a self build project; as a windfall site would fulfil the social role of providing a very modest contribution to housing supply and would meet a specific identified local need. In these aspects the proposal would satisfy the social and economic dimensions of sustainable development.

Final conclusions and conditions

20. As set out above there are some consistencies and some conflicts with some of the Policies in the DP. There would be some harm to openness and the location is not one where development is specifically encouraged under the strategic approach set out in Policy CS1 of the CS. However, I have concluded the proposal would assist a local family with a specific need, would have a low impact on the character of the countryside, would have some limited social and economic benefits and future occupiers would have reasonable access to day to day services and facilities without relying on a private vehicle.
21. Taking all the above matters into account I conclude that the proposed development accords with the DP taken as a whole. Accordingly I conclude that the site is suitable for residential development having regard to the DP and the principles of sustainable development.
22. I have assessed the conditions proposed by the Council against the tests in paragraph 206 of the Framework and against the national Planning Practice Guidance. Where appropriate I have amended the wording of conditions. In the interests of visual amenity it is necessary and reasonable to require the development to be carried out in accordance with the submitted plans, that external materials are agreed, landscaping is provided, and that tree protection measures are put on place. As the site is close to the Roman road and other historic remains a scheme for archaeological investigation is required. In the interests of public health it is necessary to ensure satisfactory drainage is provided. Future development on the site should be controlled in the interests of the appearance of the countryside.
23. For the reasons set out above and taking into account all relevant matters raised I conclude that the appeal should succeed.

SDHarley

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out strictly in accordance with the approved plans and drawings Ref 449/14/1; 449/14/2 showing the site extending to the fence at the back of the plot only; and the tree constraints plan.

3. No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
4. Notwithstanding the provisions of the Town and Country Planning (General
5. Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no freestanding buildings, extensions, additions or alterations to the roof or porches shall be erected other than those expressly authorised by this permission.
6. No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.
7. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include:
 - Details/schedules of proposed planting
 - Details of the type/construction, height and alignment of all new and retained walls, fences, retaining structures and other boundary treatments/means of enclosure
 - Details/samples of hard surfacing materials
 - Timetables for implementation.
8. The landscaping works shall be completed in accordance with the approved details. Thereafter, all fences, walls, hard standings and other hard landscaping features shall be maintained in accordance with the approved details. Any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
9. No above ground works shall commence until samples/precise details of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with approved details.
10. Where the approved plans and particulars indicate that construction work is to take place close to the Root Protection Area (RPA) of any retained tree(s), large shrubs or hedges, prior to the commencement of any development works, a Tree Protection Plan (TPP) detailing how the retained trees will be protected during the development, shall be submitted and approved in writing by the Local Planning Authority before the commencement of any ground clearance, demolition, or construction work
11. Before the commencement of any ground clearance, demolition, or construction work other than the installation of tree protection measures,

the applicant or their agent shall notify the Local Planning Authority in writing of the full establishment of the tree protection measures.

12. Where the approved plans and particulars indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees, large shrubs or hedges, prior to the commencement of any development works, an Arboricultural Method Statement (AMS) detailing how any approved construction works will be carried out, shall be submitted and approved in writing by the Local Planning Authority. The AMS shall include details on when and how the works will take place and be managed; and how the trees, shrubs and hedges will be protected during such a process.