

Appeal Decision

Site visit made on 19 April 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 04 August 2016

Appeal Ref: APP/L3245/W/15/3139968

Land East of Weston Lane, Weston, Oswestry, Shropshire SY10 9ES

- 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 Russell Young against the decision of Shropshire Council.
 - The application Ref 14/05557/OUT, dated 10 December 2014, was refused by notice dated 5 June 2015.
 - The development proposed is a single residential dwelling and formulation of new access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was submitted in outline with access only to be determined at this stage. I have considered the appeal on this basis with the submitted layout plan being for indicative purposes only except in relation to the details of access.
3. Since the refusal of the planning application, the Council adopted the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan on 17 December 2015. The parties have dealt with this change in the development plan in their statements.
4. After the submission of his statement, the appellant brought to my attention an appeal decision¹ dated 16 May 2016 for residential development at Teal Drive, Ellesmere. The parties were invited to make observations on whether the matters in this decision had a bearing on the cases they had made. I have taken these observations into account in coming to my decision.
5. I have subsequently been made aware by the Council that they have lodged a statutory challenge under s288 of the Planning Act against this decision in the High Court. A High Court Order has been granted for the case to proceed to an oral hearing.

Main Issue

6. The main issue in this appeal is whether the proposal would represent a sustainable form of development in the countryside.

¹ Appeal Ref APP/L3245/W/15/3067596

Reasons

7. The appeal site forms part of an agricultural field lying in open countryside outside the village of Weston. Policy CS1 of the adopted Shropshire Core Strategy (CS) 2011 sets down a strategic approach, concentrating development to market towns and other key service centres. In terms of housing provision in rural areas, the policy aims to provide 'rural rebalance' ensuring rural areas become more sustainable accommodating around 35% of Shropshire's residential development predominantly in community hubs and clusters to be identified in the SAMDev. The village of Weston is not identified as hub or cluster towards which development should be directed.
8. Policy CS4 of the CS allows development outside of a community hub or cluster providing that the proposal meets the requirements of CS Policy CS5. Policy CS5 states that new development in the countryside will be strictly controlled in accordance with national policies protecting the countryside. The policy allows for exceptions where they improve the sustainability of rural communities by bringing local economic and community benefits. The policy lists a number of development types that would be considered acceptable. Whilst the appeal proposal would not relate to any of the types of development listed, I consider that the wording of the policy does not exclude other development, provided that a proposal brings local economic and community benefits and in accordance with Policies CS6 and CS17 would be sustainable and not erode the character of the countryside.
9. Paragraph 7 of the Framework states that there are three dimensions to sustainable development, economic, social and environmental. In terms of the economic strand, the construction of the dwelling would support jobs in the local construction industry and the need for building materials would benefit local suppliers. Future residents of the development would spend locally and make use of local services and facilities and in addition the development would be liable to pay Community Infrastructure Levy. However, as this is a proposal for one dwelling any contributions would be limited.
10. In terms of the social aspect to sustainability, the proposal would add to the supply of housing in the area. As Weston has little in the way of facilities, any future residents would need to travel to Morda or Oswestry. The site is within 500 metres of Morda. The village provides a primary school, which I would estimate to be around 900 metres distance and other services including a pre school, village hall, social club and playing fields. In terms of accessibility, the route to access the services in Morda is along a narrow country road, with no footway or lighting until the edge of the village. I consider that this would discourage future residents from walking or cycling to Morda and they would be more likely to use the private car especially in the evening or winter months.
11. Whilst the development boundary of Oswestry may be approximately 850 metres from the site, it is further to the main services and facilities in the town centre. I consider that this distance would encourage future residents to rely on the private car. The appellant has made reference to the site being in walking distance to a number of bus routes including the No. 53 which connects Oswestry with Ellesmere. I have not been provided with any evidence of the location of the nearest bus stop or how frequent these services run. I therefore have no evidence before me that there is a good public transport service which would reduce the reliance on the car.

12. I also note that the site is around 160 metres from Mile Oak Industrial Estate. However I have no information regarding the employment opportunities it provides. Moreover, the estate may not provide suitable employment for the future residents of the proposed dwelling, who would then need to travel further afield, again with a likely reliance on the private car.
13. The environmental dimension of sustainability relates amongst other things to protecting and enhancing the natural and built environment. The appeal site forms part of a wider agricultural field. Whilst it is located next to a storage yard and shed to the north of the site, its corner position in the field would in my view, appear visually intrusive and result in an encroachment of built development into this area. I note the proposed new boundary hedgerow and trees on the submitted plans, which could be secured by a suitable condition. However, these would take some time to become established. It would also in my view be unlikely to effectively screen the presence of a dwelling particularly when viewed from the south.
14. The Framework states in paragraph 8 that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. The appeal proposal would provide some economic and social benefits. However, having regard to the scale of the development, these would be very limited. Furthermore I do not consider the site to have a high level of accessibility, with future residents likely to be dependent on the private car to access services and facilities. In terms of the environmental gains, I consider the development would result in a negative impact, with built development encroaching in to the countryside and altering the character and appearance of the site and surrounding area.
15. The appellant has brought my attention to recent appeal decisions where open market development in the countryside has been found to be consistent with CS Policy CS5, two of which post date the adoption of the SAMDev. Whilst I do not have full details of these cases, I note their similarities to the appeal case, being located on the edge of existing settlements, but I also note that there are differences. Where housing development has been allowed in the open countryside, the locations of these appear to me to have been considered to be sustainable for a variety of reasons, either because they were on the edge of Key Service Centres² or in reasonable walking distance to shops and public transport³. Each development needs to be considered on its own merits and it is on this basis that I have determined this appeal.
16. In conclusion, the appeal site is located in the open countryside outside any settlement identified for residential development. I have concluded that the site would not generally be accessible to local services and facilities other than by the use of the private car and that its development would result in harmful encroachment of the countryside. In terms of factors weighing in favour, the development of the site would provide social and economic benefits. The proposal would also contribute to the supply of housing in the Borough, though as the development is for one dwelling this contribution would be limited.
17. Accordingly, the proposal would not form sustainable development and would conflict with CS Policies CS1, CS4 and CS5 and SAMDev Policies MD1 and MD3 which set out the development strategy for the area strictly controlling new

² APP/L3245/W/15/3006489

³ APP/L3245/W/15/3134152

development in the countryside. The scheme would also conflict with CS Policies CS6 and CS17 which aim to protect, conserve and enhance the natural environment and local character.

Other Matters

18. There is dispute between the parties on whether the Council can demonstrate a 5 year supply of deliverable housing land. The appellant has brought my attention to a recent appeal decision for a residential development on Teal Drive, Ellesmere. In this case the Inspector concluded that the Shropshire Core Strategy housing requirement was out of date, that the Council did not have a Fully Objectively Assessed Need (FOAN) and therefore could not demonstrate a 5 year supply of deliverable housing land. The appellant argues that in line with paragraph 49 of the Framework the relevant policies for the supply of housing should not be considered to be up to date. Paragraph 14 of the Framework is therefore engaged which sets out that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The Council considers that the Inspector in reaching this decision made a legal error and they are making a statutory challenge to this decision in the High Court.
19. Even if I were to conclude on the evidence in this case, that the Council could not demonstrate a 5 year supply of housing land as put forward by the appellant, and therefore that the relevant policies for the supply of housing should not be considered to be up to date, I consider that the adverse impacts I have identified would significantly and demonstrably outweigh the benefits.
20. I note that planning permission for an affordable dwelling on the site was granted under planning application ref 13/01063/FUL in August 2014. The appeal seeks a market dwelling on the same site. The appellant argues that the erection of a market dwelling would be equally sustainable and have no greater environmental impact than an affordable dwelling.
21. The development of an affordable dwelling on the appeal site would however have been considered in a different policy context to the current appeal, as it pre dated the SAMDev and would have been subject to the requirements of CS Policy CS11 which permits exception sites for local needs affordable housing. The Councils Type and Affordability of Housing SPD 2013 (SPD) sets out criteria for the location of affordable homes for local people on exception sites, in or adjoining an existing settlement. These include a demonstration of housing need, the ability to identify or afford suitable market housing in the locality and a strong connection to the area. The SPD explains that exception sites are in locations that would not normally obtain planning permission for new housing development. The appeal site would form such a site.
22. The appellant has submitted a signed and dated Unilateral Undertaking which would make a financial contribution to the provision of affordable housing in accordance with CS Policy CS11. However, following an Order of the Court of Appeal on 13 May 2016, legal effect has been given to the policy set out in the Written Ministerial Statement of 28 November 2014 that off-site contributions should not be sought from schemes of less than 10 units. This Government advice is a material consideration which is likely to outweigh the requirements of the development plan policy but as I am dismissing the appeal on the substantive issue I have not considered the matter further.

Conclusion

23. I have found that the appeal proposal would not represent a sustainable form of development in the countryside.
24. For the reasons given above and having regard to all other matters raised, I dismiss this appeal.

Helen Hockenhull

INSPECTOR