

Appeal Decision

Site visit made on 3 October 2016

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 13th October 2016

Appeal Ref: APP/L3245/W/16/3150320

Land off School Road, Kinnerley, Shropshire

- 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 A & A & A Whitelaw & Evans against the decision of Shropshire Council.
 - The application Ref 14/03035/OUT, dated 4 July 2014, was refused by notice dated 14 December 2015.
 - The development proposed is construction of 8 houses.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters except access reserved for consideration at a later stage. A drawing showing an indicative site layout was submitted with the application and I have had regard to this in determining the appeal.

Main Issues

3. The main issues in this case are:
 - (1) Whether the proposed development would provide a suitable site for housing with particular reference to access to local services and amenities and the settlement strategy for the area; and,
 - (2) The effect of the proposed development on the character and appearance of the surrounding countryside.

Reasons

Location

4. The appeal site is currently agricultural grazing land which at the time of my site visit contained a number of horses. It is located on the western side of School Road adjacent to, and partly within, the Development Boundary of the village of Kinnerley. To the south east on the opposite side of School Road is a primary school, to the south and east is both existing housing and land with permission for housing development. To the north is the main part of the village and to the west is open countryside. The scheme would place 8
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- dwellings on this site which would gain access from the south via the driveway serving the approved development site to the south.¹
5. The village of Kinnerley is identified in the development plan for this area as being part of a Community Cluster of settlements allocated for growth of around 50 dwellings, 33 of which will be on allocated sites, during the period to 2026.² The suitability of this site for development must be considered in the context of the policies for Community Clusters set out in the Council's development plan. This includes the Shropshire Local Development Framework Core Strategy (Core Strategy) 2011, and the Sites Allocations and Management of Development Plan (SAMDev) adopted in December 2015. These documents set out a framework which seeks to ensure that rural communities will become more sustainable by focusing development and investment in Community Hubs and Community Clusters.
 6. At the present time the village has approvals in place for 53 new dwellings, including the outline approval directly to the south of the appeal site. On my site visit I saw that two approvals totalling 23 houses have been constructed on sites on the eastern side of the village. To the south west of the appeal site a brownfield site, which is outside the Development Boundary, has approval for 18 dwellings. Whilst 24 of these dwellings are/will be on the sites allocated in the SAMDev, 29 dwellings are/will be windfall developments. The evidence presented to me suggests that there is a strong prospect of all of these approvals being delivered.
 7. Whilst the appellants note that almost a third of the appeal site is within the village Development Boundary and is part of a site allocated for housing (referenced KNY002), most of it is outside this boundary and must be regarded as open countryside. Furthermore I note that the provision for housing on the allocated site was for 12 dwellings, and that this has already been achieved in the extant approval for this site. It is therefore clear that the settlement guideline figure for the whole of this Community Cluster has already been exceeded in Kinnerley alone, well before the expiry of the plan period.
 8. In this context it is relevant to consider SAMDev Policy MD3 relating to the delivery of housing which states that in addition to supporting the development of the allocated housing sites set out in settlement policies, planning permission will also be granted for sustainable housing development on windfall sites both within designated settlements and the countryside. A document providing further explanation of this Policy clarifies the role of its second part³. This sets out considerations which should be applied in situations in which the settlement guideline figure would be exceeded.
 9. Whilst the Council states that it is too early to determine whether or not the housing guideline for this area will be achieved or overachieved as the development plan runs to 2026, in the context of significant recent approvals within Kinnerley it is relevant to look at these considerations here. They include the increase in the number of dwellings relative to the guideline, the

¹ 14/00581/OUT – outline approval for 12 dwellings.

² SAMDev Policy S14.2(vii) identifies the settlements of Kinnerley, Maesbrook, Dovaston and Knockin Heath as a Community Cluster. New housing will be delivered through specific site allocations in Kinnerley and Maesbrook which together will deliver 33 dwellings. In addition to the allocated sites, sustainable development by infilling, conversions and small groups of houses may be acceptable on suitable windfall sites within the existing Development Boundaries of the cluster settlements.

³ SAMDev Plan Policy MD3: Delivery of Housing: Overview.

- presumption in favour of sustainable development, the benefits arising from the development, the cumulative impacts of a number of developments in a settlement and the need to have regard to other policies in the Local Plan.
10. As the appeal site must be regarded as being located mostly on land designated as countryside, Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev are relevant in this case. These policies seek to strictly control development in the countryside, with new development only being permitted where this improves the sustainability of rural settlements by bringing economic and community benefits. In this respect new housing is limited to that which is needed to house rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings. Whilst noting that the appellants have indicated an intention to complete a Section 106 agreement relating to a contribution towards affordable housing, nevertheless, the appeal proposal does not fall within any of the categories of development covered by these Policies.
 11. The Kinnerley Parish Neighbourhood Plan (KPNP) 2013 is also a material consideration⁴. This document endorsed the development of the site referenced KNY002 as one of two sites identified as extensions to existing village Development Boundaries. Whilst the inclusion of the appeal site as part of this extension was considered during the preparation of the KPNP, it was not endorsed through this process.
 12. The Council's Statement of Case makes it clear that the sustainability of Kinnerley is not in question as it has been identified as a sustainable village capable of accommodating additional growth in the SAMDev. Nevertheless the combination of both recent completions and recently approved development will represent an increase in the number of dwellings in the village of around 50%.
 13. In this context, the supporting text to Policy MD3 states that the settlement guideline figure is not a maximum figure, but that development going beyond it to too great a degree could stretch infrastructure and community goodwill to breaking point. The appellants suggest that if windfall developments are included in the settlement allocation for this Cluster then it would be reasonable to assume that in excess of 70 dwellings are envisaged for this Community Cluster, noting that Kinnerley is the main settlement. However, the plan period has some time to run and the housing allocation relates to all settlements in this Cluster.
 14. In this respect the concerns of the Parish Council and local objectors about the capacity of local infrastructure, particularly local roads, to manage such increases are relevant. Whilst I accept that no particular evidence has been put before me to validate such concerns, the KPNP is a relatively recent community led document. In this respect it is relevant to note that SAMDev Policy S14.2 (vii) emphasises the importance of the adopted guidance from the community led KPNP in determining such cases.
 15. The appellants reference the location of this site within close proximity of the school and other key services. They state that this site is closely related to

⁴ The KPNP was not prepared under the statutory framework set out in the Localism Act and has not been 'Made'. Therefore it does not form part of the development plan. Nevertheless it fed into the development of the SAMDev provisions for this area.

other sites in the village which have recently gained approval for housing, including the brownfield site to the south west which is outside the village development boundary. The appellants also note that the appeal site is closer to the village centre than three of the other development sites. I do not disagree with any of these points, though note that services and facilities within the village are basic as they are limited to the school, a public house, village hall, church, shop and post office with a basic two hourly bus service. As such it is clear to me that the restrictions on the growth of this settlement identified in SAMDev Policy S14.2 (vii) are appropriate.

16. The parties both make reference to appeal decisions in this area in which Inspectors have both allowed and dismissed development in countryside locations. Specifically, the appellant refers to a recent case in which the appeal was allowed even with some policy conflict. Whilst I do not have the full details of the circumstances of these cases before me, it is clear that as the relevant policy considerations are finely balanced, the specific locations and site circumstances of each case are critical to their determination.
17. In considering the benefits arising from this development, the appellant has stated that an affordable housing contribution of around £72,000 and a community infrastructure levy contribution of around £80,000 would be made if this application was successful. However, such contributions would be required if this scheme was located on a fully allocated site within Development Boundaries.
18. In this respect it is clear that consideration of the benefits arising from development, as referred to in Policy MD3, when looking at situations in which settlement guidelines will be exceeded, does not relate to open market housing but to affordable housing to meet local need and essential countryside workers. I accept the appellants' point that recent development proves that there is a demand for new homes in this village, suggesting confidence in local services and facilities. Nevertheless the role of the development plan is to manage such pressures in the best interests of the local community and wider area.
19. In drawing this discussion together, I have sought to examine this proposal in relation to local policy which seeks to achieve 'rural rebalance' by supporting the sustainable development of rural settlements. I have acknowledged that this site is in part allocated for housing, that it is in a reasonably sustainable location with access to some basic services, but that most of it lies in open countryside which has not been allocated for development in either the development plan or the KPNP. I have also noted that recent completions and approvals in this area already exceed the housing allocation guidelines for this settlement. Furthermore, this proposal for 8 units of open market housing would not meet an identified local need.
20. Therefore, on balance, I conclude on this matter that the proposal would not provide a suitable site for housing with particular reference to the settlement strategy for the area. It would therefore not comply with the Core Strategy Policies CS4 and CS5, or SAMDev policies S14.2 (vii), MD3 and MD7a.

Character and appearance

21. As noted above, the appeal site is presently grazing land and is bordered by hedges containing mature trees to the north, east and west. The existing development site is located to the south and there are additional mature trees

in the southern portion of the site. I accept that this development would to some degree be screened by this existing vegetation, and that the development to the south would be more obvious in terms of visual intrusion. Nonetheless there would be some visibility of the appeal dwellings in the surrounding countryside through glimpsed views, particularly in winter months when foliage is sparser. In this respect the combined impact of the development to the south along with this scheme would present a significant increase in the extent of built form in this semi-rural location.

22. I agree that the evidence submitted by the Council on this matter is limited and appears to have been confused with matters relating to the detailed design of the dwellings and site which would be considered at reserved matters stage. I also accept that specific concerns in relation to this matter have not been raised by statutory consultees or objectors. Nevertheless, this point is clearly identified in the Council's Statement of Case and I accept that the additional visual intrusion into the countryside around the village has not been justified in this case.
23. The appellants also state that there is little fundamental difference between the appeal site and the approved site immediately to the south. Nevertheless the combined impact of the development of both of these sites in this semi-rural location is of concern.
24. On this matter I conclude that the proposal would have a detrimental effect on the character and appearance of the surrounding countryside. In this respect it would conflict with the Core Strategy Policies CS6 and CS17, and the SAMDev Policies MD2 and MD12 all of which seek to protect the local character and visual qualities of Shropshire's natural assets.

Other Matters

25. The appellants question the council's housing number guidelines with reference to recent appeal decisions which note under delivery in this area and the fact that, as noted above, housing guidelines are not to be regarded as maximum figures. Whilst the Council's housing land supply is not specifically challenged by the appellants, reference is made in the Council's Statement of Case to a recent High Court case relating to an appeal decision at Teal Drive in Ellesmere where the Inspector has challenged the housing land supply in this area⁵.
26. Notwithstanding such considerations, even if I accepted the need to boost housing supply in this area, this would not inevitably lead to the appeal being allowed. If this was the case then the net addition of eight houses which could be delivered reasonably quickly would carry significant weight in favour of the proposal. However, I consider that the evidence I have examined in relation to the suitability of this location for this development significantly and demonstrably outweighs the social and economic benefits of eight new units of residential accommodation when assessed against the policies in the Framework taken as a whole.
27. As noted previously, the appellants have indicated their intention to provide a Section 106 agreement to make an affordable housing contribution. This would comply with Core Strategy Policy CS11. However, notwithstanding this intention, such an agreement has not been presented as part of the evidence in

⁵ APP/L3245/W/15/3067596

this case. If this agreement had been in place then this benefit would have been weighed against the harm identified.

Conclusions

28. I have found in this case that the proposed development would not be appropriate in terms of its location, and that it would also have a detrimental effect on the character and appearance of the surrounding countryside.
29. For these reasons, taking into consideration all other matters raised, the appeal is dismissed.

AJ Mageean

INSPECTOR