

Appeal Decision

Site visit made on 5 January 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 26th January 2017

Appeal Ref: APP/L3245/W/16/3159738

Cwm Gweld, Stoneacton Farm Junction to Brook House Farm, Junction with B4371, Wall Under Heywood SY6 7DS

- 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 Jeremy Southorn against the decision of Shropshire Council.
 - The application Ref 16/02831/FUL, dated 24 June 2016, was refused by notice dated 30 August 2016.
 - The development proposed is the erection of three dwellings with detached garages.
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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 landscape, having particular regard to whether the proposal would conserve the landscape and scenic beauty of the Shropshire Hills Area of Outstanding Natural Beauty (AONB).

Reasons

Planning Policy Context

3. Paragraph 14 of the National Planning Policy Framework (the Framework) sets out a presumption in favour of sustainable development. For decision taking this means 'approving proposals which accord with the development plan without delay' and 'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.'
 4. Paragraph 12 of the Framework nevertheless makes clear that the statutory status of the development plan as the starting point for decision making has not changed. Development that accords with an up-to-date Local Plan should be approved and development that conflicts should be refused unless other material considerations indicate otherwise.
 5. The appellant suggests that the primacy of the development plan as the starting point carries no greater weight than 'other material considerations'. However, whilst the Framework is in itself a material consideration of some importance, it does not absolve the decision maker of the statutory duty in
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respect of the development plan. Although the weight attributed to material considerations is a matter for the decision maker, and such considerations may indeed be capable of outweighing conflict with the development plan, this does not diminish the primacy of the development plan as the starting point for decision taking.

6. The development plan in this instance comprises the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) and the Shropshire Site Allocations and Management Development Plan 2015 (SAMDev).
7. Policy CS1 of the CS sets out the strategic approach to new development over the plan period, with the rural areas accommodating around 35% of Shropshire's residential development. Policy MD7a of the SAMDev seeks to strictly control new market housing outside of Community Hubs and Community Clusters. Policy CS4 of the CS states that in rural areas, communities will become more sustainable by not allowing development outside of Community Hubs and Community Clusters unless it meets Policy CS5. The appeal site does not lie within a Community Hub or a Community Cluster Settlement identified under Policy MD1 of the SAMDev.
8. Policy CS5 seeks to strictly control new development in the countryside. Development will be permitted on appropriate sites which maintain and enhance countryside vitality and character and where they improve the sustainability of rural communities. In addition, Policy MD3 of the SAMDev states that planning permission will be granted for other sustainable housing development having regard to other policies of the Local Plan, including policies CS2, CS4, CS5, MD1 and MD7a.
9. Consequently, the proposal would conflict with the relevant development plan policies, unless it can be demonstrated that the proposal would constitute sustainable development and would, as a consequence, accord with Policy CS5 of the CS as well as other relevant local plan policies.

Character and Appearance

10. The appeal site lies within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The appeal site and Wall under Heywood are located within a gentle plateau of rolling countryside that is punctuated by occasional development. It comprises fields with wooded areas and undulating slopes rising to hilltops. These features encapsulate the landscape and scenic beauty of the AONB.
11. The appeal site comprises part of an agricultural field to the rear of a detached bungalow which sits adjacent to the junction of Stone Acton Lane and B3471. The site lies close to the core of Wall-under-Heywood and is largely surrounded by open, agricultural fields.
12. Paragraph 115 of the Framework states that great weight should be attached to conserving landscape and scenic beauty in AONBs, which along with National Parks, have the highest status of protection in relation to landscape and scenic beauty.

13. Planning permission¹ was granted in September 2015 for the erection of three dwellings on the appeal site. I understand that prior to the grant of planning permission the previous scheme was amended to comprise a single detached house along with two link-detached properties with a footprint of around 170m² on plot 1 and 130m² on plots 2 and 3.
14. In contrast, this appeal proposal seeks to erect three detached dwellings each with a footprint of around 220m². The dwellings would be 1.5 storey in height and the scheme would include a large expanse of permeable surfaced driveway and detached garages. The proposal would create individually designed dwellings based on a variety of vernacular modelling, details and materials.
15. I note that the site is reasonably well screened from the B4371 and Stone Acton Lane by established trees and hedging along the field boundaries, as well as by the existing property to the east and an agricultural building to the north. Nevertheless, despite the utilisation of the roof space for upper floor accommodation, the height of the properties, the scale and extent of the roof pitches and gables, and the overall footprint of the dwellings would mean that from certain vantage points in the immediate area, the presence of built form in this location would be readily apparent.
16. Moreover, the majority of built form in the settlement is localised on the opposite side of the B4371, with only sporadic housing and other buildings located out with. Housing on the appeal site would stand apart, and be visually distinct, from the development within Wall under Heywood.
17. The appellant indicates that the layout of the housing would not be perceptible in public views. However, the proposal would be seen in longer-distance views from higher ground and would be observed in the context of the flat plateau of adjacent fields which are agricultural in nature and are typical of the countryside which characterises the AONB. As a result, the development would appear as a prominent and suburban element of built form within what is a large expanse of relatively unfettered countryside.
18. I conclude, therefore, that the proposal would have a harmful effect on the character and appearance of the landscape and would fail to conserve the landscape and scenic beauty of the Shropshire Hills AONB. Consequently, it would conflict with Policy MD2 of the SAMDev which states that proposals should contribute to and respect locally distinctive or valued character. It would also conflict with Policy MD12 and Policy S5 of the SAMDev which state that proposals which would have a significant adverse effect on the special qualities of the Shropshire Hills AONB will only be permitted where the social or economic benefits outweigh the harm, and that new development must recognise the importance of conserving the special qualities of the AONB.

Sustainable Development

19. The appellant makes reference to the case of *Wychavon District Council v Secretary of State and Crown House Developments Ltd* [2016] EWHC 592 (Admin) in which the Court found that the presumption in favour of sustainable development exists outside of paragraph 14 of the Framework. However, the Court later found in *Trustees of the Barker Mill Estates v Test Valley BC & SSCLG* [2016] EWHC 3028 (Admin) that the presumption in favour of

¹ 14/04973/FUL

sustainable development is solely contained within paragraph 14 of the Framework and similarly in *East Staffordshire BC v SSCLG and Barwood Strategic Land [2016] EWHC 2973 (Admin)* that the presumption in favour of sustainable development exists only within paragraph 14. Where a plan is not absent silent or out of date the presumption means approving development that accords with it without delay. Development that is in conflict with such a plan, as is the case here, cannot benefit from the presumption in favour of sustainable development. As a result, in this instance, the weighted balance set out in the presumption in paragraph 14 does not apply.

20. Nevertheless, the policies within the Framework are an important material consideration which must, in this instance, be weighed in the balance. I note that the recent adoption of the SAMDev does not necessarily have the effect of rendering settlements previously judged to be sustainable as unsustainable. However, sustainability is not solely confined to a consideration of accessibility to services and facilities.
21. Paragraph 7 of the Framework sets out that there are three dimensions to sustainable development – economic, social and environmental. Paragraph 8 of the Framework sets out that these roles should not be undertaken in isolation because they are mutually dependent. Therefore, in judging whether the proposal would achieve sustainable development, I must have consideration to the proposal against the policies in the Framework as a whole.
22. The parties agree that, in contrast to the extant permission, the proposal should not make a contribution towards affordable housing, in line with the Written Ministerial Statement (WMS) of 28 November 2014 and the Planning Practice Guidance (PPG) in respect of affordable housing and tariff based contributions. On the evidence before me, I have no reason to disagree. Nevertheless, the lack of affordable housing provision would reduce the social benefits of the proposal in comparison to the extant scheme.
23. The proposal would generate Community Infrastructure Levy (CIL) payments, however, such payments are designed to offset the impact of new development on the infrastructure of an area. CIL payments would, therefore, be a neutral consideration.
24. The proposal would have some social benefits, however, as it would make a modest, but nevertheless important, contribution towards meeting housing need in the area. Furthermore, the proposal would make a small contribution towards supporting local services and facilities through increased spending from future residents. There would also be some economic benefits as the proposal would support employment during construction. The Council has raised no particular concerns with the suitability of the location of the appeal site, noting that it has some services, facilities and employment opportunities within walking distance. I have no reason to disagree.
25. However, such considerations would not outweigh the harm that would arise to the character and appearance of the landscape, and the failure to conserve the landscape and scenic beauty of the AONB. In line with paragraph 115 of the Framework, this is a matter to be afforded great weight. As a result, the proposal would fail to fulfil the environmental role of sustainability.
26. Consequently, having regard to the provisions of the Framework, the appeal proposal would not constitute sustainable development and would conflict with

Policy CS5 of the CS and Policy MD3 of the SAMDev. The proposal would also, therefore, conflict with CS Policies CS1, CS4 and SAMDev Policies MD1, MD3 and MD7a.

Other Matters

27. The appellant has made reference to an appeal decision at Yew Tree Inn, Shrewsbury Road, All Stretton². In contrast to my findings in this case, the effect of the proposal on the character and appearance of the landscape and the AONB was not a main issue of dispute between the parties in the All Stretton appeal and the Inspector subsequently found no harm would arise to the character or appearance of the AONB. In addition, the Inspector found that the proposal would fulfil all 3 dimensions of sustainable development. That is not the case here. In any event, I have considered this appeal on its own merits. I therefore afford the referenced appeal limited weight.
28. The appellant argues that the previous permission provides a fallback which would justify the grant of planning permission here. Whilst the fallback position would serve a similar purpose to the appeal proposal, the appellant indicates that the permission is 'held to ransom' by the affordable housing requirement attached to it. This casts doubt on whether there is a reasonable prospect of the extant permission being implemented if this appeal is dismissed. Furthermore, I have found that, on the evidence before me, the appeal proposal would be more harmful than the permitted scheme. I am therefore unable to afford the fallback position more than moderate weight.

Conclusions

29. Whilst I have afforded considerable weight to the benefits of the scheme and given moderate weight to the presence of a fallback position, there are no considerations in this instance that would outweigh the conflict with the development plan nor the harm that would arise to the character and appearance of the landscape, the failure of the proposal to conserve the landscape and scenic beauty of the Shropshire Hills AONB and the subsequent failure of the proposal to constitute sustainable development.
30. For the reasons given above, and having considered all other matters, the appeal should be dismissed.

Jason Whitfield

INSPECTOR

² APP/L3245/W/16/3149461