



Appeal Decision

Site visit made on 20 June 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 27 June 2017

Appeal Ref: APP/L3245/W/17/3170391

The Workshop, South View, Ludlow Road, Little Stretton, Shropshire SY6 6RF

- 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 Keenan against the decision of Shropshire Council.
 - The application Ref 16/04962/FUL, dated 27 October 2016, was refused by notice dated 6 February 2017.
 - The development proposed is demolition of existing industrial workshop and erection of a new detached dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Keenan against Shropshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding;
 - Whether the proposal would accord with the development strategy for the area; with particular regard to whether it would maintain or enhance the vitality of rural communities; and,
 - The effect of the proposal on the living conditions of neighbours residing at South View, with particular reference to outlook, daylight and sunlight.

Reasons

Flood Risk

4. The appeal site comprises a single storey timber cladded workshop located to the west of a bungalow known as 'South View' and within Little Stretton. Whilst the extent is disputed, the site is at risk of fluvial flooding from Quinny Brook, a tributary of the river Onny. The site has not been allocated for housing development in a development plan.

5. The parties do not agree on which flood risk zone the appeal site falls within. Based on flood maps produced by the Environment Agency, the Council consider that the site falls within a flood zone 3a area where a high probability of flood risk exists. With reference to a Flood Risk Assessment (FRA) that accompanied a nearby planning application¹ at Old Hall Farm, the appellant contends that the site is located in a flood zone 2 which has a medium probability of flood risk. The application at Old Hall Farm was subsequently appealed and the Council withdrew its reason for refusal relating to flood risk based on comments made by its Land Drainage Section. Whilst the appeal before me is accompanied by an FRA, it has not been supported by a sequential test. However, the Land Drainage Section do not object to the FRA and its mitigation measures, and state that sequential and exception tests are not required.
6. Paragraphs 100 - 103 of the National Planning Policy Framework (the Framework) state inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk through application of a sequential test. Consequently, planning applications within either a flood zones 2 or 3a, such as the proposal, are required to apply a sequential test to establish whether there are other reasonably available sites for the proposed development in areas with a lower probability of flooding. In this context, irrespective of whether the site falls in flood zone 3a or 2, a sequential test is required.
7. In concluding that a sequential test is required, I have taken into account the Council's stance to flood risk in relation to the application at Old Hall Farm, comments made by the Land Drainage Section and that the proposal involves a brownfield site. However, these factors do not alter the requirements of paragraphs 100 - 103 of the Framework and paragraphs 18, 19 and 33 of the PPG which necessitate a sequential test to establish whether the development could be accommodated in a flood zone 1 location which has the lowest probability of flooding. As the proposal involves the demolition of the existing building and construction of a new dwelling, it cannot be considered as a change of use proposal. In addition, the proposal does not fall within the definition of 'minor development' as outlined at paragraph 46 of the PPG. Nor is a change of use fall back option of converting the existing building into residential use sufficient justification to disregard the Framework's requirement for a sequential test to accompany a new build dwelling in a flood zone 2 or 3a area.
8. The use proposed is considered 'more vulnerable' as outlined in table 2, paragraph 66 of the PPG. Therefore, should the sequential test conclude that no other sites are available, the proposal is then required to pass an exception test. This test involves the submission of a FRA demonstrating that the proposal would have sustainable community benefits or that there are other factors that would outweigh flood risk. Whilst an FRA has been submitted in support of the proposal, this forms part of the exception test which follows the application of the sequential test. However, a sequential test has not been made or submitted by the appellant and the Framework is clear that both the sequential and exception tests must both be passed for development to be permitted.

¹ Council Ref 15/05546/FUL, Proposed erection of two dwellings and associated garages at Old Hall Farm, Crown Lane, Little Stretton SY6 6PP

9. Therefore the proposal would not comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding. Consequently the proposal would be contrary to paragraphs 100 - 103 of the Framework the requirements of which are outlined above.

Development Strategy

10. Policy CS4 of the Core Strategy (CS) states that in rural areas, development will be focussed into settlements designated as Community Hubs and Community Clusters. The Site Allocation and Management of Development (SAMDev) Plan does not designate Little Stretton as a Community Hub or Community Cluster. Consequently, for planning purposes the site is located in the countryside. CS Policy CS 4 goes on to say that development outside a Community Hub or Community Cluster will not be allowed unless it meets CS Policy CS5.
11. Policy CS5 seeks to strictly control new development in the countryside in accordance with National Planning Policy. The policy goes on to state that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. Also of relevance is SAMDev Policy MD7a which states that new market housing will be strictly controlled outside of settlements, including Community Hubs and Community Clusters. The exceptions to this principle listed in Policy MD7a do not apply to the proposal.
12. SAMDev Policy MD3 states that in addition to supporting the development of allocated housing sites, permission will be granted for other sustainable housing development having regard to Policies CS2, CS3, CS4, CS5, MD1 and MD7a. The explanatory text to Policy MD3 states that windfall development on other sites, both within settlements and in the countryside, including brownfield sites, are also important having regard to policies of the Local Plan.
13. Taking into account Policy CS5 and the brownfield status of the site in the context of Policy MD3, there is scope to consider the proposal based on National Planning Policy and whether it would improve the sustainability of rural communities by bringing local economic and community benefits. Furthermore this approach is consistent with the Framework and an appeal decision² highlighted by the appellant.
14. In the context of paragraph 55 of the Framework, the proposal would not occupy an isolated location with built form adjoining the site on all of its sides and beyond. In this respect, it would not comprise sporadic development. Little Stretton has two pubs, a church, village hall and regular bus service all within walkable distance of the site. Additional services would be available for future occupants at Church Stretton; a settlement designated as a Community Hub by the SAMDev Plan. Taking into account the availability of non-private vehicular access for future occupants of the dwelling to nearby services, the proposal would maintain and enhance the vitality of the rural communities of Little Stretton and Church Stretton.
15. Therefore the proposal would accord with the development strategy for the area, with particular regard to whether it would maintain and enhance the

² APP/L3245/W/16/3149461, Yew Tree Inn, Shrewsbury Road, All Stretton, Shopshire SY6 6HG

vitality of rural communities. Consequently, the proposal would not conflict with CS Policies CS4 and CS5, SAMDev Policies MD1 and MD7a and paragraph 55 of the Framework.

Living Conditions

16. The west elevation of South View facing the workshop contains ground floor windows serving a living room, dining room and kitchen which are all already within the 21m separation distance suggested by the Council. Of the three rooms, the dining and living room depend on its respective west elevation window as a principal source of outlook, sunlight and daylight. The existing outlook from each window encompasses the close proximity of the workshop and thus is already restricted. Similarly, the level of sun and daylight reaching these windows is already compromised.
17. The proposed dwelling would be similar in width, slightly closer to the neighbouring windows and a little taller in eave height. However the resultant difference to the outlook for neighbours would be immaterial. The submitted Sun Path Site Plan demonstrates that the proposal would have a limited effect on sunlight levels for neighbours, particularly with a sufficient level of sunlight reaching the windows of the lounge area. Taking into account the proximity of the workshop to South View, the proposal would not unacceptably affect sun and daylight levels for neighbouring occupants. A Grampian condition as suggested by the appellant to secure an additional bay window would further ensure adequate levels of outlook, sun and daylight for neighbours.
18. Therefore the proposal would not have a harmful effect on the living conditions of neighbours residing at South View, with particular reference to outlook, daylight and sunlight. Consequently the proposal would meet the requirements of CS Policy CS 6 and SAMDev Policy MD2 which requires development to safeguard residential and local amenity.

Other Matters

19. The site lies just outside the Little Stretton Conservation Area (LSCA) and would involve replacing a building that does not make a positive contribution to the LSCA. Owing to the sympathetic design and set back of the replacement building, it would enhance and allow a greater appreciation of the LSCA. It would also reuse a brownfield site. These benefits attract modest weight in favour of the appeal.
20. The proposal would lead to economic and social benefits in the form of construction employment and its support (see second main issue) to the vitality of rural communities. I also note that the proposal has received local support, including from the Parish Council. These factors attract modest weight in favour of the appeal. Whilst I have identified no harm to the living conditions of neighbouring occupants, an absence of harm can only be considered as a neutral factor in the planning balance.
21. However, in combination, the weight afforded to the modest benefits identified above would not outweigh the conflict of the proposal with national planning policy in respect of flood risk as reasoned above in the first main issue.

Conclusion

22. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

B Bowker

INSPECTOR