
Appeal Decision

Site visit made on 31 July 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 29th August 2017

Appeal Ref: APP/L3245/W/17/3173976

Lower Craignant Farm, Selattyn, Oswestry SY10 7NP

- 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 David Evans against the decision of Shropshire Council.
 - The application Ref 16/02617/OUT, dated 13 June 2016, was refused by notice dated 19 October 2016.
 - The development proposed is an outline application for the erection of 2 no. detached dwellings following demolition of existing derelict industrial building (all matters reserved).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline, with all matters reserved for future consideration, as confirmed by the Council. I have determined the appeal on this basis. Plans were submitted with the application indicating the site layout of the proposal. However, I have considered these on the basis that they are indicative only and do not form part of the application.
3. I have used the description of development as set out in the Council's Decision Notice. This is more concise than that contained within the application form.

Main Issues

4. The main issues are whether the proposal accords with the Council's housing strategy, with particular regard to its location, and its effect on biodiversity.

Reasons

Housing Strategy

5. Policy CS4 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets out how new housing will be delivered in the rural areas by focusing it in identified Community Hubs and Community Clusters. This is supported by Policy S8.2 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015. The Council confirms that the appeal site is not located within any identified Community Hub or Cluster. The nearest Community Hub or Cluster is Sellattyn, Upper/Middle/Lower Hegoed and Pant Glas.
6. Policy S14.2 (X) of the SAMDev identifies a need for a further 5 dwellings within Sellattyn to be delivered over the plan period. At least 11 dwellings have

already been granted planning permission¹ within Sellatyn. The appellant contends that at least one of these sites is outside the settlement boundary of Sellatyn. However, the details of the location of these schemes is not before me, therefore I cannot draw any direct comparison with the appeal proposal. Furthermore, it is not clear what the status of the development plan was at the time the permissions were granted or whether the Council could demonstrate a demonstrable five year supply of housing land. Therefore, I can only attribute limited weight to this matter. In any event, the appeal site is a considerable distance from Sellatyn.

7. The appellant argues that the site falls within the hamlet of Craignant, which comprises a collection of a very small number of sporadic properties, including a chapel. However, there is no evidence before me that Craignant forms part of a Community Hub or Cluster. The site is approximately 1.6km from the settlement of Sellatyn. Accordingly, for the purposes of the development plan, the site is considered to be located within the open countryside.
8. Policy CS5 of the CS allows new development in the open countryside only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. There is no evidence before me to suggest that the proposal falls within any of the development listed in Policy CS5.
9. In support of Policy CS5, Policy MD7a of the SAMDev states that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters.
10. The Council confirm that they have a five year supply of deliverable housing land. The appellant does not dispute this, although he does argue that there is a shortfall in housing provision within the area. However, there is no evidence that the Council's housing target is not going to be met. Accordingly, the policies within the development plan that are relevant to housing supply are considered to be up-to-date and therefore paragraph 49 of the Framework is not engaged.
11. The appellant's main argument is that the site is a brownfield (previously developed) site as it was previously used for industrial purposes for over 50 years. There is an industrial building on the site and an associated hardstanding area, which are no longer in use. The dwellings would replace the existing building and hardstanding.
12. I note the appellant's reference to the recently published Department for Communities and Local Government's White Paper 'Fixing our broken housing market', which supports the re-development of previously developed sites and seeks to amend the National Planning Policy Framework (the Framework) to indicate that great weight should be attached to the value of using suitable brownfield land within settlements for homes. However, this is in no way suggesting a *carte blanche* to redevelop any previously developed land. It relates to 'suitable' brownfield land 'within settlements'. I do not consider that the appeal site is located within a settlement, for the purposes of planning, or near to any shops, services, facilities or employment opportunities.

¹ LPA Ref 15/04319/REM, 15/03363/OUT and 14/01668/OUT

Consequently, it would result in a heavy reliance on the use of private transport. Accordingly, I do not consider that it is a suitable brownfield site within a settlement, as envisaged by the White Paper.

13. Whilst the Council admit that they do not have a brownfield site register, they do have a five year supply of deliverable housing land. Furthermore, there are likely to be more suitable brownfield sites than the proposed site within settlements. Accordingly, I do not consider that the lack of a brownfield register undermines the Council's housing strategy.
14. I find therefore that the proposal fails to accord with the Council's housing strategy as embodied in Policies CS4 and CS5 of the CS and Policies MD7a, S8.2 and S14.2(X) of the SAMDev.

Biodiversity

15. Paragraph 99 of Circular 06/2005 'Biodiversity and Geological Conservation-statutory obligations and their impact within the planning system' ODP states that developers should not be required to carry out surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.
16. The Council contend that the proposal has the potential to affect priority habitats, badgers, reptiles, bats and nesting birds. The site is in proximity of semi-improved grassland, bracken, standing trees, scrub, broadleaved woodland, open water, building and debris. Accordingly, there is a reasonable likelihood of these species being present and affected by the development and, as such, I consider that an Ecological Assessment is required. No such assessment has been submitted.
17. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances². There is no evidence before me to suggest that there are any such exceptional circumstances.
18. I find therefore that in the absence of an ecological assessment of the appeal site it is not possible to ascertain the effect the dwelling would have on protected species. Therefore, the proposal would fail to comply with Policy CS17 of the CS, which, amongst other matters, seeks to protect the ecological value of the area. Similarly, it would fail to accord with paragraph 109 of the Framework, which states that development should conserve and enhance biodiversity.

Other Matters

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 150 of the Framework echoes this, stating that local plans are the key to delivering sustainable development that reflects the vision and

² Paragraph 99 of Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System*

aspirations of local communities and planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. The statutory primacy of the development plan is reinforced in paragraphs 196 and 210 of the Framework and its first core principle is that planning should... "be genuinely plan-led."

20. The dwellings would be occupied by the appellant's daughters. However, there is no indication that they would be secured as affordable dwellings. Therefore, whilst I appreciate the appellant's wish for his family to remain living in the area, I can only attribute this matter limited weight in favour of the proposal.
21. The proposal would provide two family sized homes and therefore it is likely that any children occupying them would help support local schools and services.
22. I acknowledge that the Parish Council support the proposal and consider that it would improve the visual amenities of the area. Whilst the proposal is in outline form, it is possible that it would improve the visual amenities of the area through appropriate design and landscaping, which weighs in favour of the proposal.
23. Whilst these matters are material considerations that weigh in favour of the proposal, I do not consider that individually or cumulatively they outweigh the harm identified by reason of undermining the Council's housing strategy as set out in the Council's development plan.

Conclusion

24. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR