
Appeal Decision

Site visit made on 21 August 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 11 September 2017

Appeal Ref: APP/L3245/W/17/3176249

Land Adjoining Primrose Cottage, Wattlesborough, Shrewsbury, Shropshire SY5 9DY

- 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 Mrs Carol Yarwood against the decision of Shropshire Council.
 - The application Ref 16/04859/OUT, dated 18 October 2016, was refused by notice dated 14 December 2016.
 - The development proposed is a new dwelling on land adjoining Primrose Cottage.
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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. I have dealt with the appeal on this basis.

Preliminary Matters

3. The reason for refusal set out in the Council's decision notice does not provide any reason as to why the Council determined that the proposal was unacceptable. However, the Council have confirmed that the lack of a reason for refusal was an administrative error and that the reason for the refusal was clearly set out in the Officer's Report. Accordingly, the main issue in this decision has been informed by the Officer's Report and the Council's Statement of Case.

Main Issue

4. The main issue is the effect of the proposal on the Council's housing strategy, with regard to its location, and its effect on biodiversity.

Reasons

5. The appeal site forms part of the garden area associated with Primrose Cottage. The site has a frontage with the adjacent highway and is located within a loose ribbon of residential development that forms part of the settlement of Wattlesborough.
6. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. The policy goes on to state that

development in rural areas will be predominantly in Community Hubs and Community Clusters.

7. Policy CS4 of the CS sets out how new housing will be delivered in the rural areas by focusing it in identified Community Hubs and Community Clusters. There is no dispute that Wattlesborough is not identified as a Community Hub or Cluster. Therefore, for the purposes of the development plan, the site is 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. Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015 supports Policy CS5 of the CS. It states that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. The explanatory text to Policy MD7a confirms that new housing developments are acceptable outside the strategically agreed locations set out in Policy CS1 of the CS. However, this is limited to exception site dwellings and residential conversions as sustainable housing solutions to meet recognised local housing needs or to help secure the future of buildings which are valued as heritage assets. There is no evidence that the proposal is for either of these.
10. The appellant argues that Policy MD3 of the SAMDev permits sustainable housing development including windfall development on non-allocated sites including sustainable sites in the countryside. However, the opening paragraph to Policy MD3 clearly states that it is to be read in conjunction with the Local Plan as a whole, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a. When read together, I do not consider that these policies permit open market dwellings such as that proposed and therefore the proposal would be contrary to them.
11. The SAMDev provides a flexible approach to housing delivery identifying where housing will be focused. Should there be a lack of housing delivery within these locations, paragraph 3 of Policy MD3 allows for additional sites outside development boundaries, subject to satisfying paragraph 2. However, there is no evidence before me that settlement housing targets are not likely to be met during the lifetime of the plan.
12. The appellant contends that the site is in a sustainable location with good links to services, facilities and employment opportunities. Also, it would provide some economic benefit, albeit limited, by providing construction jobs and using local materials. However, I have found that the proposal would be contrary to the housing strategy as set out in the CS and the SAMDev, which has only recently been adopted and found to be in accordance with the National Planning Policy Framework (the Framework). Whilst the appellant argues that the Council's deliverable housing land is close to the minimum five year requirement, they nevertheless have one. Accordingly, the relevant policies for the supply of housing are considered to be up to date and bullet four of paragraph 14 of the Framework is not engaged.

13. I find therefore that the proposal would fail to accord with the Council's housing strategy, as embodied in Policies CS5 of the CS and Policies MD3 and MD7a of the SAMDev.
14. The Council also refer to Policy CS6 of the CS. However, there is no evidence before me that the proposal would conflict with this policy.

Biodiversity

15. The Council did not refer to the effect of the development on biodiversity in the conclusion of the Officer's Report. However, it is referred to under 'Consultee Comments'. Furthermore, it also referred to in the Council's Statement of Case. It is my duty to consider all relevant issues before me.
16. The site is within 150 metres of a Local Wildlife Site which contains a series of quarry pools where the presence of Great Crested Newts has been recorded. The Council confirm that the site has direct connectivity with this area via hedgerows. Consequently, the site has the potential to represent a suitable terrestrial refuge habitat.
17. Where there is a reasonable likelihood of a species being present, it is essential that the presence of protected species, and the extent to which they would be affected by the development, is established prior to planning permission being granted. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances¹. 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 accord with paragraph 109 of the Framework, which states that development should conserve and enhance biodiversity.

Other Matters

19. The appellant has referred me to a recent appeal decision in Queens Head². Whilst I am not bound by the decision, it is a significant material consideration. I note that the Inspector concluded that the scheme was in accordance with the CS and the SAMDev. However, although I recognise that the scheme shares similarities with the appeal proposal before me, in that it was in the open countryside, I have no details of the evidence presented to the Inspector. In this instance, the Council have presented a compelling case that the proposal conflicts with the relevant policies within the CS and the SAMDev.
20. I have also had regard to the planning permission granted on land adjacent to Lower Wigmore Farm³. The Committee report confirms that the scheme did not accord with Policy CS5 of the CS as it was in an open countryside location, as I have concluded. However, at the time the Council could not demonstrate a five year supply of deliverable housing land and therefore the presumption in favour of sustainable development set out in paragraph 14 of the Framework was engaged and the application subsequently approved. Therefore there is a

¹ Paragraph 99 of Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System*

² Appeal Ref APP/L3245/W/16/3143041

³ LPA Ref 14/00629/OUT

significant difference between the policy considerations of the approved scheme and the proposal before me as the Council can now demonstrate a five year supply of deliverable housing land.

Conclusion

21. 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. 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."
22. The proposal would be located in a sustainable location, in terms of accessibility; would provide a modest benefit to the local economy; and, would make a positive contribution, albeit very limited, to the supply of housing. In addition, the site could be considered previously developed land as defined in the Framework. Whilst these matters weigh in favour of the proposal, I do not find that, individually or cumulatively, they outweigh the harm it would have on protected species and by virtue of it undermining the Council's housing strategy.
23. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR