



Appeal Decision

Site visit made on 25 September 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 19th October 2017

Appeal Ref: APP/L3245/W/17/3177257
Field Lane, Bishops Castle, Shropshire

- 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 Bryan Leslie and Eunice Mary Jones against the decision of Shropshire Council.
 - The application Ref 15/03805/FUL, dated 25 August 2015, was refused by notice dated 6 February 2017.
 - The development proposed is the erection of a single open market dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would accord with the Council's housing strategy in terms of its location.

Reasons

3. The appeal site comprises a field accessed directly off Field Lane via an existing gated access. Development along Field Lane is sparse and sporadic. The site lies on the edge of the settlement of Bishop's Castle, as defined in the Shropshire Council's Adopted Policies Map - S2 Inset Map 1, which is to the north and east of the site.
4. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 and Policy MD1 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan 2015 focus new development towards Shrewsbury, the Market Towns and other identified Key Centres and, in the rural areas, the Community Hubs and Community Clusters. Policy CS3 of the CS and Policy MD3 of the SAMDev identify Bishop's Castle as a Market Town. The site does not fall within the settlement boundary of Bishop's Castle.
5. 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. The site is not within any identified Community Hub or Community Cluster. Therefore, for the purposes of the development plan, the site is located within the open countryside.
6. 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; however, I accept the appellant's contention that the list is not exhaustive.
7. The appeal site is currently an undeveloped field. Whilst it is on the edge of a Market Town, the openness of the site, the surrounding trees and hedges and the lack of intervisibility with nearby built forms, with the exception of the dwelling directly to the north, results in it being read as part of the open countryside rather than the settlement. Therefore the introduction of an open market dwelling on the site would detract from its openness and represent an encroachment into the open countryside. As such, it would fail to enhance the countryside vitality and character. I note that the site has good access to shops, services, facilities and employment opportunities in Bishop's Castle. However, I do not consider Bishop's Castle to be a rural community as envisaged by Policy CS5. Accordingly, I do not consider that the proposal would comply with Policy CS5.
 8. Policy MD7a of the SAMDev supports Policy CS5, and goes on to further state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Notwithstanding the explanatory text's reference to isolated dwellings, as the proposal is clearly a new market house outside any of these identified areas I find that this policy is relevant. It sets out various types of residential development that would be permitted in the countryside, including exception site dwellings, residential conversions and essential rural workers' dwellings. Therefore, although Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy MD7a of the SAMDev does. As the proposal is for an open market dwelling, the proposal would fail to accord with Policy MD7a.
 9. Policy MD3 of the SAMDev has regard to the delivery of housing development. Paragraphs 2 and 3 of Policy MD3 relate to settlement housing guidelines, with paragraph 2 confirming that they are a significant policy consideration. Where the settlement housing guideline is unlikely to be met, paragraph 3 allows for additional sites outside the development boundary, subject to satisfying paragraph 2.
 10. Policy S2 of the SAMDev sets out a housing guideline of 150 dwellings to be delivered in Bishop's Castle for the period of 2006-2026. To date, 76 dwellings have been completed. A further 39 dwellings have been granted planning permission and there is an allocated site for 40 dwellings. I acknowledge that all of these sites may not be developed within this period. Nevertheless, just over half of the guideline figure has already been met and there is more than the remaining guideline of 74 dwellings committed through permissions and allocations. In addition, there is no evidence to suggest that other windfall sites within the settlement boundary would not come forward. As the delivery period is only just over halfway through its lifetime, I find that the Council is on track to providing the guideline figure of 150 dwellings.
 11. Whilst Policy MD3 does allow for additional sites outside the settlement boundaries this is only if the settlement housing guideline is unlikely to be met. Based on the evidence before me, there is no substantive evidence to suggest

that the settlement housing guideline would unlikely be met. As such, the proposal would conflict with Policy MD3. I accept that the settlement housing guideline is not a maximum figure. However, this in itself does not justify permitting new dwellings outside the settlement boundary contrary to Policy MD3.

12. Paragraph 3 of Policy MD3 does not identify the only circumstance where dwellings outside settlement boundaries would be acceptable. As I have identified above, Policy CS5 of the CS and MD7a of the SAMDev also allow new dwellings in the countryside. However, as I have set out above, such development is restricted to exception site dwellings, residential conversions and essential rural workers' dwellings.
13. The Council confirms that they have a five year supply of deliverable housing land. The appellant does not dispute this. Therefore, paragraph 49 of the National Planning Policy Framework (the Framework) is not engaged. The SAMDev has relatively recently been adopted and therefore found to be in accordance with the Framework. In addition, I find no inconsistency between the relevant policies within the CS and the Framework. The development plan has policies that are relevant to the supply and location of housing against which the appeal proposal can be considered. Accordingly, the relevant policies are considered to be up to date and consistent with the Framework. As such, bullet point 4 of paragraph 14 of the Framework is also not engaged.
14. A number of appeal decisions have been referred to me by the appellant and the Council, which indicate different interpretations of Policy MD3 of the SAMDev. Although I recognise that these schemes share similarities with the appeal proposal before me, in that they were in the open countryside, I have no details of the evidence presented to the Inspectors at the time. In this instance, the Council have presented a compelling case that the proposal conflicts with the relevant policies within the CS and the SAMDev.
15. I have also had regard to the recently published *Shropshire Local Plan Review Consultation on Preferred Scale and Distribution of Development*, dated October 2017. Whilst I note that the Council is seeking to provide 150 dwellings in Bishop's Castle, there is no indication that these cannot be accommodated within the boundary of the settlement, where the development plan focuses development. In addition, this document represents a very early stage in the Plan preparation and is subject to changes. Accordingly, I can only attribute it very limited weight.
16. 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.

Other Matters

17. The appeal site lies within the Bishop's Castle Conservation Area (the CA). The Council have raised no objection to the proposal in respect of whether it preserves or enhances the character or appearance of the area. Based on the evidence before me and the observations I made during my site visit, I find that it would have a neutral effect on the significance of the CA and therefore would preserve its character and appearance. However, this does not outweigh the harm I have identified above.

Conclusion

18. 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."
19. The proposal would have good links to services, facilities and employment opportunities. Also, it would provide some economic benefit, albeit limited, by creating construction jobs and using local materials. Furthermore, it would make a positive contribution, again albeit limited, to the supply of housing. However, as I have found that the development plan is not absent or silent, or the relevant policies out of date, the presumption in favour of sustainable development in paragraph 14 of the Framework does not apply. Whilst these benefits weigh in favour of the proposal, I do not find that, individually or cumulatively, they outweigh the harm it would have by virtue of it undermining the Council's housing strategy.
20. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR