



Appeal Decision

Site visit made on 23 January 2018

by **B Bowker Mplan MRTPI**

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

Decision date: 8th February 2018

Appeal Ref: APP/L3245/W/17/3185398

Land west of Hordley Road, Tetchill, Ellesmere SY12 9AZ

- 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 C Beasley against the decision of Shropshire Council.
 - The application Ref 17/00744/OUT, dated 14 February 2017, was refused by notice dated 4 May 2017.
 - The development proposed is outline application for the erection of 5 dwellings
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal as submitted is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis. The layout plan submitted with the planning application has been taken into account for indicative purposes.
3. Drawing ref TC-AA-500 was submitted by the appellant during the appeal process and provides additional details regarding the proposed access and visibility splays. As the plan provides additional details and does not materially alter the proposal, I do not believe that any party would be unfairly prejudiced by determining the appeal with regard to the additional plan and I have done so on this basis.

Main Issues

4. The main issues are:
 - Whether the proposal would provide a suitable site for housing, having regard to the settlement strategy for the area; and,
 - The effect of the proposal on highway safety.

Reasons

Suitable Site

5. 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. Tetchill is classified as a Community Cluster by Site Allocations and Management of Development Plan (SAMDev) Policy MD1.

However, although the appeal site is located adjacent to dwellings to the north, it is located outside the development boundary of Tetchill. Consequently, for planning purposes the site occupies a countryside location as defined by Shropshire CS Policy CS5 and SAMDev Policy MD7a.

6. Policy CS5 seeks to strictly control development in the countryside in accordance with national policy, and includes a list of development proposals permitted on the basis of maintaining and improving the sustainability of rural communities. Similarly, SAMDev Policy MD7a seeks to strictly control new market housing outside of Community Hubs and Community Clusters and also includes some exceptions to this principle. As the proposal would not meet any of the exceptions listed within both policies it would be contrary to SAMDev Policy MD7a and CS Policy CS5.
7. SAMDev Policy MD3 states that in addition to supporting the development of allocated sites, permission will also be granted for other sustainable housing development having regard to Local Plan policies, which includes Policy CS5 and Policy MD7a. However, as set out above, the proposal would be contrary to both policies. Paragraphs 2 and 3 of Policy MD3 set out that the settlement housing guideline is a significant policy consideration and that where a settlement housing guideline appears unlikely to be met, additional sites outside settlement development boundaries that accord with the settlement policy may be acceptable subject to the considerations at paragraph 2.
8. The appellant cites two appeal decisions¹ to support the view that the Local Plan restricts but does not prohibit housing development in the countryside, provided it is sustainable. The Council cite a number of appeal decisions² to support its view that the Local Plan provides some flexibility for housing development outside of development boundaries when the settlement housing guideline appears unlikely to be met over the plan period, subject to meeting the criteria listed at paragraph 2 of Policy MD3.
9. In my view, when read as a whole, the Local Plan, including SAMDev Policy MD3, is clear that sites outside of the development boundary will only be considered when the housing guideline for the settlement would be unlikely to be met. SAMDev Policy S8.2 (iv) sets out a housing guideline of around 20 dwellings for the Community Cluster comprising Tetchill, Lee and Whitemere. An allocated site for 10 dwellings is located to the immediate north east of the appeal site.
10. The evidence before me indicates that there are 14 commitments and 5 completions across this Community Cluster to date. However as the SAMDev plan period runs until 2026, it seems highly likely that the Council will be able to meet the housing guideline by the end of the plan period. On this basis, the proposal would not accord with Policy MD3.
11. In reaching this view I note that Whitemere and Lee are smaller settlements than Tetchill and that the proposal is of a modest scale. However these factors do not outweigh or prevent the conflict of the proposal with the above noted policies.
12. Therefore the proposal would not provide a suitable site for housing, having regard to the settlement strategy for the area. Consequently the proposal

¹ APP/L3245/W/16/3143041 and APP/L3245/W/16/3149461

² Within the Council's Statement of Case

would be contrary to CS policies CS4, CS5, and SAMDev policies MD1, MD3 and MD7a which are of most relevance to this matter. The requirements of these policies are set out above.

Highway Safety

13. The vehicular access to the site would be to the south of a 30mph speed limit located on the edge of Tetchill. The lane to the east boundary of the site serves as a through route between Ellesmere to the north and a number of villages to the south. I understand that agricultural vehicles and tractors also use this lane.
14. The Highway Authority state that a detailed survey of the road frontage should demonstrate visibility splays with a length of 35m to the north and 100m to the south. The additional plan demonstrates that via the removal and replanting of the roadside hedgerow within the ownership of the appellant, a visibility splay extending 43m to the north and 79m south to the site could be provided. The carriageway details (including verge widths and hedgerows) contained in the additional plan accord with my site visit observations.
15. The southern visibility splay would be below that required by the Highway Authority. In addition, concerns have been raised regarding the speed of vehicles traversing this section of highway. In this respect I observed that vehicles approaching Tetchill from the south travelled at a greater speed than those exiting the village. However no substantive evidence is before me to demonstrate that vehicles travel 60mph along this section of highway as asserted by third parties. The southern visibility splay proposed is based on guidance set out in Manual for Streets 2 for vehicles travelling 40 mph. Given the indirect route of the lane, the proximity of the 30mph speed limit, and with no substantive evidence to the contrary, the proposed access would ensure sufficient visibility for highway users.
16. Therefore the proposal would not have a harmful effect on highway safety. Consequently the proposal would meet the requirements of paragraphs 32 and 35 of National Planning Policy Framework (the Framework). Combined, these policies require development to achieve a safe and suitable site access for all people, and to create safe and secure layouts which minimise conflicts between highway users.

Overall Balance

17. Section 38 (6) of the Town Planning and Compulsory Purchase Act 2004 (TCPA) states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Based on my reasoning above the proposal would conflict with CS policies CS4, CS5, and SAMDev policies MD1, MD3 and MD7a.
18. A number of benefits are cited in support of the proposal in the light of the three dimensions³ of sustainable development defined by the Framework.
19. The proposal would contribute towards housing supply and would adjoin Tetchill which has been identified as a sustainable location for development with reference to its allocation as part of a Community Cluster. In this respect

³ Economic, social and environmental.

the proposal would enhance and maintain the vitality of rural communities, including services at nearby villages as anticipated by paragraph 55 of the Framework.

20. The proposal would also support construction employment and could create biodiversity gains. In addition, based on my reasoning above, the proposal would not have a harmful effect on highway safety. Nor has any harm been identified by the Council in respect of local character and appearance. However an absence of harm can only be considered as a neutral factor in the overall balance. This aside, the above noted economic, social and environmental benefits attract some weight in favour of the proposal.
21. With reference to the Council's partial review of the Local Plan, Tetchill is intended to remain part of the Community Cluster and its development boundaries are proposed for removal. However the Local Plan partial review is at an early stage of preparation and no information is before me regarding the extent of unresolved objections. Thus, in the light of paragraph 216 of the Framework, I afford this matter limited weight.
22. Combined, the above identified factors and benefits attract some weight in favour of the appeal. However, the primacy of the development plan is established in Section 38 (6) of the TCPA and at paragraph 2 of the Framework. Furthermore as the Council can demonstrate a five year supply of housing land (not disputed), local policies relevant to the supply of housing are not considered out of date and thus attract full weight.
23. Paragraph 12 of the Framework states that proposed development that conflicts with an up-to-date Local Plan should be refused unless material considerations indicate otherwise. In this case, the material considerations before me do not outweigh the considerable weight afforded to the conflict of the proposal with the development plan when taken as a whole and with the Framework's core planning principle that planning should be genuinely plan led.

Conclusion

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

B Bowker

INSPECTOR