



Appeal Decision

Site visit made on 20 January 2015

by Karen L Ridge LLB (Hons) MTPL

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

Decision date: 19 February 2015

Appeal Ref: APP/L3245/A/14/2213885

Land at West View, Knockin Heath, Oswestry, Shropshire SY10 8EA

- 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 Brammer and Mrs Price against the decision of Shropshire Council.
 - The application Ref. 13/03971/OUT, dated 2 October 2013, was refused by notice dated 28 November 2013.
 - The development proposed is the erection of 4 general market houses and 4 affordable houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline and all matters with the exception of layout were reserved for subsequent approval. To the extent that the application contains information relating to the reserved matters (appearance, landscaping, access and scale) I shall treat the details as being indicative only.
3. The appeal was submitted in February 2014. As is usual both parties submitted statements and final comments within the prescribed timetables. The Council's evidence comprised the committee report which recorded the lack of a 5 year supply of housing land. On 12 August 2014 the Council submitted an updated report on its housing land supply position recording that it now has a 5.47 year supply.
4. The appellants have objected to the introduction of this evidence on the basis that it was submitted after the final deadlines. However, the housing land supply position is an important factor and this appeal must be decided on the housing land supply position at the point of determination. In the circumstances I shall consider both the Council's updated supply position and the appellants' response to it.

Main issues

5. From my reading of the evidence and my own observations on the site visit, the main issues in this appeal are:
 - whether or not the proposed housing would be in an acceptable location having regard to development plan and national policies;

- the effect of the houses on the character and appearance of the open countryside;
- the effect of development on protected trees; and
- any other material considerations in support of the proposal.

Reasons

The location of development

6. The appeal site is a greenfield site in the open countryside outside, but on the edge of, the settlement boundary of Knockin Heath. The site is a triangular slice of land, immediately adjacent to the road but at a lower level than the road. It comprises two paddocks which sit either side of the driveway associated with the residential property West View, which is set further back from the road frontage.
7. The Council's Core Strategy (CS) was adopted in 2011 and sets out housing requirements over the plan period. Policy CS4 confirms that in rural areas development will be focussed in Community Hubs or Community Clusters. CS policy CS5 seeks to strictly control new development in the countryside and policy CS6, amongst other things, promotes sustainable development principles, ensuring that all development protects the natural environment.
8. In addition policy H7 of the Oswestry Borough Local Plan has been saved and it identifies Knockin Heath as a village where only small scale infill development within the settlement boundary will be permitted. This policy objective is carried forward in the emerging Site Allocations and Management DPD (the Site Allocations DPD) which proposes to include Knockin Heath in a Community Cluster. Finally the Kinnerley Parish Neighbourhood Plan has been formally adopted by the Council and is aligned with the emerging Site Allocations DPD. The Parish Plan and emerging Site Allocations DPD retain the same settlement boundary as that in policy H7.
9. Given that the site is outside the settlement boundary, the proposal for housing development is contrary to LP policy H7 and CS policy CS4, The Neighbourhood Plan and the emerging Site Allocations DPD. At a national level, paragraph 55 of the National Planning Policy Framework (the Framework) confirms that isolated new homes in the countryside should be avoided. In terms of its location therefore, the proposal would represent a significant incursion into the open countryside and is contrary to local plan and national policies which seek to restrict development in such areas.
10. The Framework seeks to boost significantly the supply of housing and states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years supply of housing against their housing requirements (the five-year land supply). Paragraph 49 of the Framework provides that housing proposals should be considered in the context of the presumption in favour of sustainable development. It further states that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a five-year supply of deliverable housing sites. CS policy CS4, as well as LP policy H7, are clearly policies concerned with the supply of housing land.
11. Housing land supply position: The officer report of November 2013 accepted that the Council did not have a 5 year supply of housing land, confirming that

the supply was just under 5 years. During the current appeal the Council wrote to the Planning Inspectorate on the 12 August 2014 confirming that, as at 31 March 2014, the Council considered that it now has a 5.47 years supply of housing land. The appellants maintain that the Council will miss the next 5 year targets given the previous shortfalls which need to be made up.

12. For the above reasons, I conclude that the proposal would not be in conformity with LP policy H7 and policy CS4. In the event that the Council do indeed have a five year housing land supply the proposal would cause harm to policy objectives which seek to direct new development to the most sustainable locations. In the event that the Council do not have a five year housing land supply the weight given to this harm would be reduced, to some extent, by the relevant policy being out of date by virtue of the lack of the five year housing land supply. I shall return to this matter later.

Effect on the character and appearance of the open countryside

13. The appeal site is a long plot fronting onto the road. The site frontage is framed by a hedge and intermittent trees and is opposite ribbon development comprising individual houses. On the appeal site side of the road the land falls away from the highway with two dwellings, West View and Sundawn, being set well back from the road behind the appeal site land. This results in long views across the appeal site to the countryside beyond. On the opposite side of the road a string of individual houses are set along the frontage, with a heavily wooded coppice behind forming a green backdrop. Travelling along the lane one has the impression of a quiet rural idyll.
14. The proposal is in outline form with matters of scale and appearance to be determined. Layout is a matter under consideration and the draft plan depicts the houses arrayed along the road frontage. Based on these details I conclude that development on the appeal site would effectively transform this part of the lane. It would create a more urban feel with housing on both sides of the road, closing off views of the rolling countryside to the south. I conclude that the proposal would cause material harm to the character and appearance of this part of the open countryside. This is contrary to CS policies CS5 and CS6.

Effect on protected trees

15. A Tree Preservation Order is in force protecting trees along the site frontage and along the side and rear boundaries of the appeal site. These trees are mature specimens, highly visible along the lane and they make a significant contribution to the rural character of the immediate area. The layout plan depicts some 8 driveways which would make incursions into the hedgerow frontage. Whilst trees are depicted on the plan the protected trees are not highlighted. Some of the driveways appear to be close to the trees and may be within the root protection areas of the trees. Without a proper assessment I cannot be sure that the development would not cause harm to these protected trees. The loss of these trees would cause further harm to the character and appearance of the rural area.

Other Matters

16. The appellant relies on a number of factors in support of the contention that there are reasons to justify the proposal. One of the factors was the lack of a five year housing land supply. Reliance is also placed on the general need for affordable housing and on the presumption in favour of sustainable development set out at paragraph 49 in the Framework.

17. General requirement for affordable housing: Policy CS11 sets out an overall target of 33% local needs affordable housing for the first five years of the plan. This is intended to comprise a mixture of 20% social rented housing and 13% intermediate affordable housing. The explanatory text to the policy confirms that the annually updated Housing Market Assessment for Shropshire will provide information on existing stock and housing needs, with Shropshire being divided into 13 housing market areas.
18. The Council contend that the number and mix in terms of the 4 affordable housing units would represent an overprovision against the actual requirement in the Parish. The appellants state that this proposal represents a realistic opportunity to provide affordable housing in the village whereas single infill developments would not do so. However I note that the Council's policy in relation to single plot affordable exception sites has been successful in delivering homes for local needs and that 2 dwellings have recently been approved under this policy.
19. Whilst the proposal may not provide an exact match against requirements, I conclude that it would make a modest but valuable contribution to the overall affordable housing requirement for the district. This is a matter which adds some weight in support of the scheme.
20. The presumption in favour of sustainable development: The Framework seeks to promote sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of local communities. It goes on to confirm that there are three dimensions to sustainable development: economic, social and environmental.
21. In terms of economic considerations, the proposal would result in the provision of construction work and would bring additional occupants to the rural area to support services in the local villages. There would also be social benefits with the provision of affordable housing in a district which is in need of such provision.
22. There are several aspects to the consideration of the environmental dimension. Firstly, in terms of accessibility; Knockin Heath is a settlement with no services or facilities other than a garage and a plant hire company. The village of Kinnerley, some 1.5 miles distant, contains local amenities in the form of a shop, school, church and public house. The road leading to Kinnerley has no footways and is narrow in parts. I do not consider that cycling would be an attractive prospect to many. Public transport options are limited. I am informed that a bus service runs every two hours and not in the evenings. Taking all of the above matters into account it seems likely that occupants of the houses would be reliant on the private motor car for much of their day to day needs.
23. The grass fields are ecologically poor and that the development would provide an opportunity for a positive improvement in species diversity. Whilst the appellants contend that the houses would be 'eco-friendly' no further details are provided. Other environmental considerations include the harm which would be caused to the character and appearance of the rural area and I have already set out my conclusions in relation to this matter. On balance, when all three aspects are taken into account, I conclude that the proposal would not represent sustainable development.

24. The site lies partly in all three flood zones and a flood risk assessment was submitted. The Environment Agency commented that the Council should satisfy itself that development was appropriate having regard to national advice regarding the sequential and exception tests. I have noted that the Council's drainage team has raised no objection. However, I have seen little in the way of evidence to address the above tests.
25. I have seen other developments referred to but these are in different locations with different characteristics and this appeal must be determined having regard to the relevant factors.

Overall Conclusions

26. At the heart of the Framework is a presumption in favour of sustainable development. However, I have concluded that, on balance, the proposal would not represent sustainable development when all three dimensions referred to in the Framework are considered. In addition the development would cause harm to the character and appearance of the rural area and on the evidence available I cannot be satisfied that harm would not be caused to the protected trees. These are all factors which weigh against the development.
27. The proposal would however result in the modest contribution of 4 units of affordable housing and this is a matter to which I attribute some weight.
28. I have concluded that the proposal would be contrary to the development plan and national policy in terms of its location. If policies for the supply of housing land are not up to date then less weight must be given to policy objectives in relation to the location of development. However, even in the absence of a 5 year housing land supply and reduced weight to policies CS4 and H7, when the factors in support of development are weighed against the factors against, I conclude that the adverse effects of allowing the development in this proposal, significantly and demonstrably outweigh the benefits. I conclude therefore, that the appeal should be dismissed.

Karen L Ridge

INSPECTOR