
Appeal Decision

Site visit made on 10 March 2015

by William Fieldhouse BA (Hons) MA MRTPI

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

Decision date: 20 May 2015

Appeal Ref: APP/L3245/A/14/2228940
Oswestry Road, Oswestry Rural, Trefonen SY10 9DX

- 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 Howard Martin against the decision of Shropshire Council.
 - The application Ref 14/00426/OUT, dated 29 January 2014, was refused by notice dated 5 September 2014.
 - The development proposed was originally described as "use of land for residential development and the formation of a vehicular access".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development set out in the header above is taken from the planning application form. However, the decision notice and appeal form refer to an outline application (access for approval) for mixed residential development, alterations to existing vehicular access, and works to existing highway. It is clear from various documents that the application sought outline planning permission with all matters, other than access, reserved for subsequent approval, and that the submitted layout plan is for illustrative purposes only rather than a formal part of the proposal.
 3. At the appeal stage, the appellant submitted a plan showing a minor amendment to the red line boundary along the Oswestry Road frontage to ensure that it correctly corresponds to his land ownership. This would not materially affect the nature of the development, and I am satisfied that no third party interests are prejudiced.
 4. The planning application that led to this appeal was recommended for approval by officers, along with a number of others, in 2014. As it is entitled to do, a committee of the Council decided to refuse planning permission contrary to officer advice. I have been referred to a number of the other recent proposals for residential development in Shropshire, including in the village, as well as to various appeal decisions. I have taken account of these other proposals and decisions in so far as they are relevant. However, I have determined this appeal in the context of the particular nature of the site and its surroundings having regard to national and local planning policies and all of the information
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provided to me including the assessment of the planning application by Council officers.

5. On 27 February 2015, the Government published 2012-based household projections for England 2012-2037. The appellant and Council were given the opportunity to comment on whether these latest projections have implications for the current proposal. I have taken account of the responses received.

Main Issues

6. The main issues are:
 - whether the proposal would be in accordance with national and local planning policies relating to the location and supply of housing;
 - the effect on the character and appearance of the area; and
 - whether the proposal would result in a sustainable pattern of development, having regard to access to job opportunities, shops, services and facilities.

Reasons

7. Trefonen is a medium-sized village surrounded by attractive hilly countryside with fields, country lanes, scattered buildings, hedgerows and areas of woodland. There is a variety of dwellings and other buildings in the village in terms of age, layout and design. Services and facilities include a primary school, church, public house, village hall, sports pitch, playground, bus service to Oswestry and, at the time of my site visit, a shop and post office.
8. The appeal site is a low lying, essentially flat field on the northern edge of the village located between Oswestry Road to the east and Chapel Lane to the west and south. There is one mature tree, subject to a tree preservation order, and a substantial hedgerow along the Oswestry Road frontage and a stone wall along Chapel Lane. A public footpath demarcates most of the northern boundary of the site, beyond which the agricultural land continues at a similar level and then rises with a limited number of houses and farm buildings dotted across the hillside. Offa's Dyke, a Scheduled Ancient Monument, is located in a field to the north west of the site on the other side of Chapel Lane. Offa's Dyke path, a national trail, runs north to south further to the west.
9. The main parts of the village to the west and south west are on higher ground than the site, and to the east and south east are the outdoor recreational facilities, village hall, church and primary school on the other side of Oswestry Road. Immediately to the south of the site, across Chapel Lane, is a small area of public open space known as Chapel Green.

Whether the Proposal would be in accordance with the Objectives of National and Local Planning Policies relating to the Location and Supply of Housing

10. The site is outside the development boundary defined in the Oswestry Local Plan (1999) meaning that the proposal would not be in accordance with policy H5. Furthermore, policy CS5 of the Shropshire Core Strategy (2011) states that development will be strictly controlled in the countryside and that new housing will only be allowed in a limited number of circumstances, none of

which apply in this case. Policy CS4 of the core strategy states that development will not be allowed in rural areas outside community “hubs and clusters” unless it meets policy CS5, and makes it clear that these settlements will be defined in the Site Allocations and Management of Development Plan (“SAMDev”). The emerging SAMDev, which does not identify Trefonen as a hub or cluster, was submitted for examination in 2014, and the Inspector’s report has not yet been published. I attach only limited weight to the SAMDev at this stage given that there are outstanding objections to relevant policies.

11. The proposal is, therefore, contrary to both existing and emerging development plan policies aimed at protecting the countryside and ensuring that new housing is located where it will contribute towards a sustainable pattern of development, albeit that the emerging policies carry only limited weight.
12. The National Planning Policy Framework (“NPPF”) aims to boost significantly the supply of housing and makes it clear that local planning authorities should be able to demonstrate a five year supply of deliverable housing sites¹. I have been referred to two recent appeal decisions, one of which found that the Council could demonstrate an appropriate supply, the other that the evidence was inconclusive². The evidence presented to me by the Council, based on that which it submitted to the SAMDev examination, shows that in late November 2014 there were deliverable sites for 11,063 dwellings. This represents 5.43 years supply against the requirement for 10,180 dwellings for the period 2014-2019 based on the core strategy and to make up for a shortfall in delivery since 2006 along with a 20% buffer.
13. The appellant disagrees with the calculation of the current five year requirement. However, neither party suggests that the Government’s latest household projections have implications for the current five year requirement, and based on the information before me I am satisfied that the housing figure set out in the core strategy, which was adopted as recently as 2011, should remain the starting point for calculating the five year housing supply as recommended in national guidance³. The appellant does have serious doubts about the deliverability of some of the sites, but I have not been provided with a detailed critique of the Council’s latest analysis and am not therefore persuaded that they are unlikely to be developed by 2019.
14. The matter of housing land supply, along with whether “hubs and clusters” have been appropriately identified, will be thoroughly and properly tested at the SAMDev examination. In the meantime, and in the absence of any definitive evidence to lead me to conclude that the Council cannot demonstrate a five year supply of deliverable housing sites, I do not consider local plan and core strategy policies relating to the supply of housing and protection of the countryside to be out of date notwithstanding that the village development boundary was defined in the context of a plan that looked forward to 2006.
15. I therefore conclude on this issue that the proposal would be contrary to the objectives of local plan policy H5 and core strategy policies CS4 and CS5 relating to the location of housing development in rural areas. Furthermore,

¹ NPPF paragraph 47.

² Appeal refs APP/L3245/A/14/2223481 (land off Oldbury Road, Bridgnorth), dismissed 19 January 2015; and APP/L3245/A/14/2223087 (land adjacent to Rednal Manor, West Felton), dismissed 13 January 2015.

³ PPG ID-3-030.

those policies need not be considered out of date in the context of current national planning policies relating to housing land supply, sustainable development, and protection of the countryside.

Character and Appearance

16. As all matters other than access are reserved, the assessment of this issue depends on whether some form of residential development would, in principle, have a materially harmful effect on the character and appearance of the area.
17. Whilst the village development boundary is clearly defined on the local plan proposals map, there is not an obvious edge to the northern side of the settlement that one experiences on the ground. As one approaches the village along Oswestry Road from the north there are buildings and a playing field before the development boundary is reached, and similarly there are dwellings along Chapel Lane outside the local plan boundary. The agricultural land between those two roads, of which the appeal site forms part, extends some distance into what could reasonably be perceived as the built up area of the village on either side.
18. To my mind, the site at present contributes positively to the rural setting of the village, being part of a relatively narrow strip of countryside that extends into the settlement as far as Chapel Green near its centre. The open nature of this land is clearly apparent from a number of vantage points including from the surrounding roads, the public footpath to the north, and Chapel Green to the south. Whilst the hedgerow along Oswestry Road obscures views of the field to some extent, it adds to the rural quality of the area.
19. The open nature of the site and adjoining agricultural land to the north is clearly valued by local residents. This is apparent from the representations made in response to this proposal and by the Village Design Statement (2007) which states that open land and countryside surrounding the settlement must be protected from development and the part of the field next to Chapel Green, bordered by Chapel Lane and Oswestry Road should, if it ever became available, be considered for development as a public open space for community use to complement Chapel Green. Whilst the Village Design Statement predates the core strategy and NPPF, it is not inconsistent with the objectives of current and emerging development plan policies relating to Trefonen and therefore it can be afforded some weight.
20. By reducing the extent of the open wedge of countryside, the proposal would cause moderate harm to the rural setting and quality of this part of the village. Furthermore, it is inevitable that houses, however well designed and sited, would alter longer distance views into the village from the north, towards the church from the west, and out of the village from Chapel Green and nearby roads. This would, to some degree, further impact on the perceived character of this part of the village.
21. I conclude on this issue that the proposal, by leading to the loss of part of a valued open area of countryside that extends into the village, would have a moderate adverse effect on the character and appearance of the area. It would, therefore, be contrary to the objectives of national policy⁴ and core

⁴ NPPF paragraph 17, 5th bullet point.

strategy policies CS5 and CS6 which collectively recognise the intrinsic character and beauty of the countryside and seek to ensure that development respects and enhances local distinctiveness.

Sustainable Pattern of Development?

22. The site is within easy walking distance of the local services in the village meaning that future residents would not be dependent on the use of a car to meet many daily needs. Oswestry, which provides a wider range of shops, facilities and job opportunities, is only around 5 kilometres away meaning that even if the somewhat limited bus services were not used, the length of car journeys need not be excessive. I am satisfied, therefore, that the site is in a reasonably accessible location for a limited number of new homes in a rural area. Furthermore, additional residents would be likely to support businesses and services in the village, including the village school which has a significant amount of spare capacity and the recently opened shop and post office, thereby helping to sustain their existence.
23. In coming to this view, I am aware that Trefonen is not designated as a “hub or cluster” in the emerging SAMDev, but understand that is something that depends on a broader range of issues than the accessibility of the site and, in any case, is a matter that should properly be determined through the on-going examination process. Furthermore, I am aware of a number of appeal decisions where the issue of whether new housing in rural parts of Shropshire would represent sustainable development was considered⁵. However, those decisions relate to different locations, and reflect the particular circumstances of those cases which no doubt were materially different to those before me.
24. I conclude on this issue that the proposal would result in a sustainable pattern of development consistent with the objectives of national policy⁶ and core strategy policy CS6 which collectively seek to ensure that development is accessible to all, the need for car based travel is reduced, and housing in rural areas is located where it will enhance or maintain the vitality of rural communities.

Other Matters

25. A signed planning obligation has been submitted at the appeal stage which would ensure the provision of on-site affordable housing and a financial contribution towards the provision of affordable housing elsewhere in accordance with Council guidance⁷. This would mean that the proposal would help to meet identified housing needs in the area in accordance with core strategy policy CS11. On this basis I am satisfied that it would meet the relevant legal and national policy tests, and I will therefore take it into account in coming to my decision⁸.
26. The proposal would lead to social and economic benefits through the provision of twenty or so new homes in a location that would help to maintain and

⁵ Appeal refs APP/L3245/A/14/2212314 (land adjoining The Romping Cat, near Bomere Heath) dismissed 7 October 2014, and APP/L3245/A/14/2222742 (land to north side of Station Road, Dorrington) dismissed 10 November 2014.

⁶ NPPF paragraphs 32 and 55.

⁷ Supplementary Planning Document on the Type and Affordability of Housing (adopted 2012)

⁸ NPPF paragraph 204.

enhance the vitality of a rural community, as well as by making a contribution towards providing affordable housing elsewhere. The development would also create additional work for builders during the construction phase. Given that the scale of the proposal is limited, and that I have found that the Council is able to demonstrate a five year supply of housing land, I attach moderate weight to these benefits.

27. The proposal would lead to the loss of grade 3 agricultural land. However, given the limited size of the site, and the fact that it is bounded on three sides by roads and development within the village, I attach only limited weight to the harm that would be caused.
28. The site is sufficient distance away from Offa's Dyke, with existing buildings and Chapel Lane in between, to mean that the proposal would have no material impact on the Scheduled Ancient Monument or its setting. Subject to conditions, any heritage assets associated with former mining and brickworks carried out on and around the site could be protected and recorded as appropriate meaning that the site's contribution to the historic character of the area would be protected.
29. The proposal has attracted opposition from a large number of local residents and the Parish Council who have various other concerns, in addition to the issues that I have already considered, including in relation to highway safety, car parking, local infrastructure, ecology, contamination, land stability, drainage and flooding. However, these have all been carefully considered by the Council with the benefit of expert advice from a number of consultees. Based on all that I have read, including the various technical reports submitted by the appellant as well as information provided by third parties, and seen during my site visit, I agree with the Council that the proposal would cause no material harm in these respects provided that appropriate conditions were attached if the appeal were to be allowed.
30. The appellant is concerned that vociferous local residents are unreasonably opposed to much needed new housing in the village, and frustrated that a site that was identified in the Council's strategic housing land availability assessment as suitable as long ago as 2009 has not been allowed to be developed. However, I have considered the current proposal on its own merits in the context of relevant national and local planning policies.

Overall Assessment and Conclusion

31. A core principle is that planning should be genuinely plan-led, meaning that plans should be kept up to date and that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise⁹.
32. The proposal would be contrary to current development plan policies relating to the location of new housing.
33. The proposal would also be contrary to policies in the Village Design Statement and the emerging SAMDev, and lead to the loss of a small area of agricultural

⁹ NPPF paragraph 11 and 17.

land. Whilst I attach only limited weight to these factors, they count against the proposal.

34. Furthermore, I have found that the proposal would cause moderate harm to the character and appearance of the area.
35. On the other hand, the proposal would have social and economic benefits to which I attach moderate weight.
36. As I have found that relevant local plan and core strategy policies are not out of date, it is not necessary for me to consider whether the adverse impacts that I have identified would significantly and demonstrably outweigh the benefits¹⁰. Rather, the balancing exercise that I need to undertake is simply whether material considerations indicate that development that is not in accordance with the development plan should be allowed.
37. As I have identified moderate harm to the character and appearance of the area, along with some other limited harm, and benefits that are worthy of moderate weight, the material considerations do not indicate to me that the proposal should be allowed contrary to the development plan.

Conclusion

38. For the reasons given above, I conclude on balance that the appeal should be dismissed.

William Fieldhouse

INSPECTOR

¹⁰ NPPF paragraph 14.