
Appeal Decision

Site visit made on 29 June 2015

by Joanne Jones BSc(Hons) MA MRTPI

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

Decision date: 10 July 2015

Appeal Ref: APP/L3245/W/15/3005625

Land south of Woodbatch Road, Bishops Castle, Shropshire (grid ref 331457 288685)

- 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 Miss Megan Pinches against the decision of Shropshire Council.
 - The application Ref 14/02411/OUT, dated 30 May 2014, was refused by notice dated 6 November 2014.
 - The development proposed is an outline planning application for the erection of a single detached dwelling and associated garage.
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Decision

1. The appeal is dismissed

Preliminary Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on this basis. A proposed site plan with an indicative footprint for the dwelling has been submitted, for illustrative purposes only, to which I have had regard.
3. I have used the site location details taken from the appellant's appeal form as, from what I saw on my site visit, it better reflects the site's location.
4. An executed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted as part of the appeal. I shall return to this matter in the decision below.

Main Issues

5. The main issues in this case are the effect of the proposed development on the character and appearance of the area; and whether the proposal would constitute sustainable development within the meaning of the National Planning Policy Framework (the Framework).

Reasons

Background

6. The Framework is predicated on the principle that sustainable development is about positive growth. In terms of positive housing growth, paragraph 47 of the Framework requires a significant boost in the supply of housing by ensuring

that the full, objectively assessed housing need (OAHN) is embedded within the development plan. It also requires Council's to identify and annually update a five year supply of deliverable housing land incorporating an additional 5% buffer, to ensure choice and competition, and where there is a record of persistent under-delivery a 20% buffer should be applied. Paragraph 49 of the Framework requires housing applications to be considered in the context of the presumption in favour of sustainable development. Accordingly, where a five-year supply of deliverable housing sites cannot be demonstrated, relevant policies for the supply of housing should not be considered up-to-date. The appellant refers to the Council's inability to demonstrate an adequate supply of housing land.

7. Following the submission of the appeal, a number of appeal decisions were issued that related to housing development in the Council area. Those Decisions related, to varying degrees, to housing land supply in the District, with the Inspectors coming to different views as to whether the Council could, or could not, demonstrate an appropriate supply¹. Furthermore, the Council points to its emerging 'Shropshire Site Allocations and Management of Development Plan' (SAMDev), the main modifications of which are currently subject to public consultation, and the 'Shropshire Council: Five year supply housing land update (June 2015). The Council considers that these demonstrate that Shropshire has a 5 year supply of deliverable housing sites, particularly as the examining Inspector has not sought additional sites as part of the modification process. However, the appellant states that the Council's calculations are flawed and the delivery unachievable as they are heavily based on the SAMDev allocations.
8. I have not been provided with any unresolved objections to the site allocations, nor am I convinced that the housing targets are unrealistic or unachievable. The Council's evidence was balanced and reasonable, demonstrating a cautious approach to housing supply and an up to date knowledge of the allocated sites. Furthermore, given the advanced stage of the SAMDev I afford it considerable weight.
9. In the end some of these arguments turn on a matter of judgement, but I found no substantive evidence to say that the Council's housing land supply does not comply with advice at bullet point 2 of paragraph 47 of the Framework for a five year supply of specific deliverable sites. Therefore the provision in paragraph 49 of the Framework for considering relevant policies for the supply of housing as 'not up-to-date' does not apply.
10. In reaching this opinion I acknowledge the appellant's comment that sustainable development should not be restricted solely because a 5 year housing land supply target has been met and it is otherwise found acceptable. Sustainable development is a matter I will return to in due course.

Planning policy

11. The Framework explains, at paragraph 12, that its existence does not change the statutory status of the Development Plan as the starting point for decision making. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that

¹ APP/L3245/A/14/2228348; APP/L3245/W/14/3000672; APP/L3245/W/14/3001829; and APP/L3245/W/14/3001799

applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises of the Shropshire Local development Framework Adopted Core Strategy 2011(Core Strategy) and certain policies of the South Shropshire District Council Local Plan (Local Plan) which have been saved following a Direction made by the Secretary of State.

12. The Local Plan identifies a settlement boundary for the town. Policies CS3 and CS5 of the Core Strategy seek to protect the countryside and restrict new open market housing development to within the town's settlement boundary and on sites allocated for development.
13. The appeal site is located adjacent to, but outside, the settlement boundary to Bishops Castle defined by the Local Plan. As a result, it is located within the countryside, contrary to policies CS3 and CS5 of the Core Strategy. The location of the proposal would therefore be contrary to the development plan. In such circumstances the Framework states at paragraph 55 that new housing in rural areas should be located where it will enhance or maintain the rural vitality of rural communities and that isolated homes in the countryside should be avoided unless there are special circumstances. No such special circumstances have been advanced by the appellant.
14. The emerging SAMDev provides detail as to the development that the Core Strategy supports in Bishops Castle. The document proposes a green field site for new housing development on a different side of the town to the appeal site. No new housing is proposed on the south western side of the town where the appeal site is located.

Character and appearance

15. The appeal site is at the western extremity of the built up area of Bishops Castle. Woodbatch Road is fronted on both sides by detached and semi detached dwellings of varying age and design.
16. Due to the shape and size of the site, the proposed dwelling would result in a not inconsiderable incursion into the open countryside. Although bounded by mature trees and hedging, for the most part the site is in a prominent and exposed location in relation to the open countryside to the south and west.
17. The site is elevated in relation to the residential development to the east and separated from it by an access track. As such, it is already visually delineated from residential development at Bishops Castle. The residential use of the site would also significantly change the character and appearance of the site and its surroundings. What is presently down to rough grass or pasture would take on a domestic character. There are likely to be enclosing fences, lawns, patio area, shrub and flower bed planting, and a range of domestic paraphernalia such as washing lines, garden furniture and perhaps children's play equipment. It is likely that, once established, there would be the subsequent (and entirely reasonable) wish to introduce outbuildings such as a garage, sheds and similar structures.
18. All of this would be very incongruous and would not be in keeping with the agricultural character of this part of Shropshire. The changes to the appearance of the site and domestication of its surroundings would demonstrably harm the character and appearance of the local area, where the

Framework comments, at paragraph 17, that planning should recognise the intrinsic character and beauty of the countryside.

19. In reaching this opinion I acknowledge the recently allowed appeals² on nearby sites. However, although these permissions are a material consideration, I must consider the scheme before me on its own merits. Since the adjacent schemes relate to two developments of approximately 9 houses per site, the circumstances are not the same as those before me. In any case the existence of these permissions is not in itself a good reason to allow development which would cause harm.
20. To conclude on this main issue, the proposal would conflict, in this regard, with Core Strategy Policies CS1, CS3, CS5 and CS17, which seek to create sustainable places, development that balances environmental constraints with meeting local needs, strictly control new development which would erode the character of the countryside and ensuring that new developments protect the character of Shropshire's natural, built and historic environment. The proposal would also be at odds with the Framework which establishes, at paragraph 7, that contributing to protecting and enhancing our natural, built and historic environment is an aspect of sustainable development and, at paragraph 17, that planning should recognise the intrinsic character and beauty of the countryside.

Sustainable development

21. The Framework seeks to boost significantly the supply of housing and paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 7 of the Framework identifies three dimensions to sustainable development – economic, social and environmental – whilst Paragraph 12 sets out twelve core planning principles that should underpin planning decision taking. In combination, these two paragraphs provide the most useful context in which to examine sustainability.
22. There would clearly be economic and social benefits associated with the proposal, including: the provision of a new home and construction jobs are recognised. However, these benefits would be achieved regardless of where the new dwelling would be built.
23. I have no reason to doubt that any future occupants would play a role in the community or that they would support local services. However, the contribution one new dwelling would make to the vitality of the rural community and the support it would give to services in nearby towns and villages would be minimal.
24. Future occupiers would have convenient access to the facilities in Bishops Castle, including employment, schools, medical services and shops. Therefore, to my mind, the location of the site is broadly sustainable.
25. The benefits of the proposal are an additional dwelling where the Framework's priority to '*...boost significantly the supply of housing...*', and the support it gives to the local economy, which must carry significant weight in my decision. Nevertheless, these positive aspects of the proposal would not overcome the harm that would be caused to the character and appearance of the area. This

² Appeal references: APP/L3245/W/14/3001799 & APP/L3245/W/14/3001829

negative feature of the proposed development would continue long after the economic benefits of constructing the development have faded. I therefore conclude, based upon the overall balance of considerations, that the proposal would not be a sustainable development in the context of the Framework.

26. The appellant refers to paragraph 14 of the Framework which states that development proposals should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. However, I have found that the development plan is not absent, nor is it silent and the relevant policies are not out of date. Accordingly, paragraph 14 is not engaged.

Unilateral Undertaking

27. In order to create mixed, balanced and inclusive communities, Policy CS11 of the Core Strategy requires all new open market housing developments to make appropriate contributions to the provision of local needs affordable housing. In respect of developments of less than five dwellings a financial contribution is acceptable in lieu of on-site provision. In this regard a signed and dated UU has been submitted which would secure contributions towards affordable housing as required by Core Strategy Policy CS11.
28. However, a Written Ministerial Statement (WMS), issued on the 28 November 2014, sets out national policy on Section 106 obligations imposed on small scale developers, custom and self-builders. This defined the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale developments. It states *"for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought"*.
29. On this basis I conclude that the financial contribution towards affordable housing is not required.

Conclusions

30. For the reasons set out above, the scheme conflicts with the development plan and other material considerations do not outweigh the harm I have found. On balance, therefore, the evidence in this case has led me to conclude that the appeal should be dismissed.

Joanne Jones

INSPECTOR