

Date: Tuesday, 16 September 2014

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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SOUTH PLANNING COMMITTEE

ADDITIONAL INFORMATION

- 7 To consider Planning Applications subject to a S106 resolution having regard to the Council's published 5 years Housing Land Supply Statement of 12th August 2014 (Pages 1 - 8)**

Planning application 13/04840/FUL – additional information circulated at the meeting.

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RE: THE UPLANDS, SHIFNAL

ADVICE

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ADVICE

1. I am instructed in this matter in relation to an application for residential development for 66 homes on a site at The Uplands, Shifnal on the 29th November 2013.

2. After many months of negotiation and discussion the matter was reported to Planning Committee on the 24th June 2014 with a recommendation for Approval subject to a satisfactory section 106 Agreement and the conditions set out within the report. On that occasion, members resolved to refuse the application but when the application went back to the Committee of the 22nd July 2014 with an updated report, members resolved to approve the application.

3. I am told that the section 106 is now effectively agreed and will be finally agreed by next week. However, there is to be another meeting of the planning committee on the 16th September 2014 in light of new data suggesting that there is more than a 5 years housing land supply (5yhls) in Shropshire. I have sight of the Report to Committee which is to Consider Planning Applications subject to S106 resolution having regard to the Council's published 5 years Housing Land Supply Statement of 12th August 2014

4. It is worth noting that only a short period of time elapsed between the resolution to grant permission and the August HLS Statement, and I am unclear how or why the further housing land calculations were undertaken. Whatever has prompted the exercise, the position taken by the Council introduces significant uncertainty into the planning process because the supply position will change frequently and applicants, as well as Officers cannot be expected to continually change their appraisals to keep up with changes in the 5yhls. Common practice is to undertake these calculations on an annual

basis so that they are undertaken on a consistent basis against monitoring data which has been consistently prepared.

5. In any event, the Council propose to reconsider the application in light of the change of position while recording at 2.2 that;

There is a strong likelihood of continuing under delivery against the county-wide Core Strategy target for another few years, meaning that the overall requirement at each update would be higher, even though the number of sites available will be increasing. Consequently, in the balance of considerations if more acceptable sustainable and suitable sites that are permitted impact of under-delivery is offset to a greater degree

6. A positive change in the housing land supply position may alter the planning balance in respect of a particular development, but not necessarily so. The NPPF at paragraph 49 considers that all housing applications should be considered in the context of the presumption in favour of sustainable development, regardless of whether or not there is a 5yhl. The starting point for decision making, whether or not there is a 5yhl is the development plan, but if the supply is lacking, then policies for the supply of housing are rendered out of date and permission should be granted unless the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
7. In this instance, the development is outside of the development boundary for Shifnal established by the Bridgnorth Local Plan (Policy S4) that was designed to guide development to 2011. Previously that restrictive policy was considered out of date because of the lack of a 5yhl. It is not the case however that it is simply up-to-date now because even if there is a 5yhl on current estimations, the boundaries in that plan is outdated. The plan was not intended to guide development beyond 2011, and certainly does not reflect the need for development in 2014, or the emphasis within the NPPF to significantly boost the supply of housing.
8. Furthermore, it is important to look at the way in which the original decision to resolve to grant planning permission was arrived at. The resolution was arrived at in accordance with Officer recommendation

who in his reports dated 24th June 2014 and 22nd July 2014 made the following observations:

- (i) That the site is a sustainable location, adjacent to existing housing immediately adjoining the built up area of Shifnal, and would satisfy the economic, social and environmental dimensions of sustainable development set out in the NPPF (para 7.1); and
 - (ii) The development of that land “would not detract from the wider landscape setting of Shifnal or the immediate locality, including the setting of the listed ‘The Uplands’ dwelling. The site layout and design of the dwellings would not unduly harm neighbour amenity. There are no ecological, tree protection, archaeological or drainage reasons that would justify a refusal of planning permission. The proposed junction design and internal road network would not be detrimental to highway safety; there would be a pedestrian/cycle link available as an alternative to private car use and the site is within walking distance of local services and facilities. Affordable housing would be provided at the current prevailing rate. The scheme would make a contribution towards affordable housing and the Travel and Movement Strategy for Shifnal through the Section 106 Agreement” (para 7.2)
9. A number of other benefits associated with the scheme were recorded in part 6 of the Report.
10. Accordingly, no harm was identified despite a technical conflict with policy S4. It would therefore make little sense at all for the committee to now find harm arising from the proposal simply because there was a five year housing land supply - the development is plainly acceptable whether there is a 5yhl or not.
11. In support of that position, a recent Appel decision - Land north of Upper Chapel, Launceston, APP/D0840/A/13/2209757 - confirmed at paragraph 51 that

.... irrespective of whether the five-year housing land supply figure is met or not, NPPF does not suggest that this has be regarded as a ceiling or upper limit on permissions. On the basis that there would be no harm from a scheme, or that the benefits would demonstrably outweigh the harm, then the view that satisfying a 5 year housing land supply figure should represent some kind of limit or bar to further permissions is considerably diminished, if not rendered irrelevant. An excess of permissions in a situation where supply may already meet the estimated level of need does not represent harm, having regard to the objectives of NPPF.

12. As the Officer in the latest report recognizes, there is likely to be under delivery against the Core Strategy target for some time, and so every opportunity to grant permission for appropriate development should be taken. In any event, the NPPF urges that sustainable development should be approved without delay. This is such a development, and accordingly, permission should be granted.

13. A further issue that arises from the September Report, and that is that the SAMDev [Shropshire Development Plan Sites Document] that has now been submitted of examination does not now include the application site which is an unfortunate omission given that it was included originally with the support of Shifnal Town Council. In any event, the Officer at 6.1.4 of the September report notes

The emerging SAMDev plan and policies can be given some weight now SAMDev is on deposit although not significant weight at this stage due to the fact there remain unresolved objections to the plan. This site is not allocated for development in the emerging SAMDev plan but was included in the revised preferred options consultation stage of the plan as a potential development site. It will therefore been considered through a process of technical site assessment and found to be suitable at that time, the reason for its exclusion from the final plan was the level of development interest on other sites in Shifnal considered against the revised housing target figures for the settlement.

14. That appraisal as well as the Officer's recommendation that sustainable development can be accommodated on the application

site is completely coherent and thus, permission should be granted. The Officer also records that policy S4 should be given limited weight in the overall balance because it is not in accordance with the NPPF.

15. The proposal has received a strong support from two Council's Officers in circumstances where there is and isn't a 5yhl. Furthermore, there has been a resolution to grant permission that puts the applicant in a very strong position if the application were refused at this late stage and the applicant were to appeal. There may well be costs implications for the Council if members chose to reject the Officer's recommendation given that;

- (i) the development is acceptable in principle; and
- (ii) no harm would arise from the conflict with the outdated policy S4 that is recorded by Officer's as being inconsistent with the Framework and to which little weight can be attributed.

IAN DOVE QC

15 September 2014

RE: THE UPLANDS, SHIFNAL

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