



Appeal Decision

Site visit made on 3 June 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th June 2019

Appeal Ref: APP/L3245/W/19/3223429

2, A488 From Nags Head to Plealey, Pontesford, Shrewsbury SY5 0UA

- 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 Josh Jones against the decision of Shropshire Council.
 - The application Ref 18/05011/OUT, dated 28 October 2018, was refused by notice dated 25 January 2019.
 - The development proposed is the erection of 1 detached self build dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline with all matters reserved for future consideration. I have determined the appeal on that basis. Drawings have been submitted indicating the siting of the dwelling and its scale and appearance. However, I have considered these on the basis that they are illustrative only.

Preliminary Matters

3. At the time of my site visit, there was a static caravan on the site, which appeared to be occupied. The Council confirms that this does not benefit from planning permission. The appellant contends that planning permission is not required for the caravan as it is permitted development. In any event, the presence of the caravan has had no bearing on my assessment of the planning merits of the appeal before me.

Main Issue

4. The main issues in this appeal are:
 - whether the site is a suitable location for housing, having regard to local and national planning policy;
 - the effect of the proposal on the character and appearance of the area, including the Shropshire AONB;
 - the effect of the development on flooding; and,
 - the effect of the development on biodiversity and protected species.

Reasons

Suitable location

5. Policy CS1 of the Shropshire Council Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. Development in rural areas will be predominantly in Community Hubs and Community Clusters.
6. Policy CS3 Shropshire Council Adopted Core Strategy (CS) 2011 states that the Market Towns and other Key Centres will maintain and enhance their roles in providing facilities and services to their rural hinterlands and that balanced housing and employment will take place within the towns' development boundaries.
7. Policy CS4 of the CS sets out how new housing will be delivered in the rural areas by focusing it in Community Hubs and Community Clusters, which are identified in Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015. Policy MD1 of the SAMDev identifies those settlements that fall within a Community Hub or Community Cluster. Policy CS11 of the CS seeks to ensure that development creates mixed, balanced and inclusive communities.
8. The site is located outside any settlement identified for residential growth within the development plan. Policy CS5 of the CS allows new development in such locations only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. There is no evidence before me to suggest that the proposal falls within any of the development listed in Policy CS5. However, the list is not exhaustive.
9. Policy CS5 is complemented by Policy MD7a of the SAMDev, which goes on to further state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, it seems to me that although Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy MD7a of the SAMDev does, unless specific criteria are met.
10. The proposal is a for an open market, self-build dwelling. The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) imposes certain duties on planning authorities, one of which is to keep a register of all individuals and organisations who are interested in acquiring a self-build/custom-build site. The planning authority must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding. It goes on to clarify that 'development permission' is "suitable" if it is permission in respect of development that could include self-build and custom housing.
11. Paragraph 61 of the National Planning Policy Framework (the Framework) states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers,

people who rent their homes and people wishing to commission or build their own homes). However, I do not agree with the appellant's assertion that this means that there should be separate policies within the development plan addressing each of these needs. Self-build dwellings are one of a number of types of development that fall under the general housing policies of both the CS and SAMDev, which could also include, for example, families with children and people who rent their homes. There is no requirement within paragraph 61 that there must be a specific policy addressing each of these needs. It only advises that the needs of these different groups must inform the development plan policies. There is no evidence before me to suggest that the Council did not take into account the needs of these groups when they drafted the development plan policies.

12. The Council's Type and Affordability of Housing Supplementary Planning Document (SPD) 2012 recognises that self-build properties can help to achieve mixed and balanced communities. Neither the CS nor the SAMDev policies explicitly refer to self-build housing. However, the relevant housing supply policies do allow, amongst other things, single plot developments within areas that the Council consider to be suitable locations, i.e. settlements identified for growth. There is nothing preventing these single plot developments being for open market, self-build dwellings. Moreover, Policy CS5 of the CS and Policy MD7a of the SAMDev allow residential development outside of these areas, albeit subject to further restrictions. Nevertheless, these policies support self-build dwellings, albeit providing they are secured as affordable dwellings.
13. Therefore, the development plan supports the provision for self-build dwellings, providing they are in suitable locations, as identified in Policies CS4 and CS5 of the CS and Policies MD1 and MD7a of the SAMDev. Legislation with regard to self-build is not carte blanche for development in otherwise unsuitable locations. Accordingly, the development plan is not silent on the matter of self-build dwellings, either affordable or open market. There is no dispute that the Council can demonstrate a five year supply of deliverable housing land. Therefore, the policies most relevant for determining the application are not out-of-date and as such paragraph 11d) of the Framework is not engaged. The fact that the CS and SAMDev predate the publication of the Framework and the Self-build Act does not render the policies within the development plan out-of-date.
14. The Council confirms that between January 2015 and April 2018, the Council had 483 people requiring self-build plots. Overall, between January 2015 and October 2018 the Council granted planning permission for 529 self-build plots. The appellant contends that it is not clear whether these dwellings are necessarily for people on the self-build register. However, there is no requirement that the Council must grant planning permission for each person on the register. Providing that the Council is granting planning permission for the equivalent number of plots as the number of entries on the register, I consider that it is carrying out its statutory duty and meeting the demand.
15. I therefore conclude that the proposal is not located in a suitable location and therefore would undermine the Council's housing strategy, as envisaged in Policies CS1, CS3, CS4, CS5 and CS11 of the CS and Policies MD1, MD3 and MD7A of the SAMDev.

Character and appearance

16. The appeal site lies between a pair of semi-detached dwellings to the north and a large commercial site providing agricultural supplies to the south. To the east and west are open fields. The site comprises a plot of land that varies considerably in ground levels with a water course running through the site. The boundary with the road is a low stone wall and to the south and east are a small number of trees and hedging. The openness of the site and the lack of built form on it make a positive contribution to the rural character of the area.
17. The site falls within the village of Pontesford, which primarily comprises a collection of dwellings and farmsteads. The eastern side of the settlement is within the Shropshire Hills Area of Outstanding Natural Beauty (AONB) and the settlement makes a positive contribution to the AONBs rural character in both heritage and landscape terms.
18. The appellant contends that Pontesford is contiguous with Pontesbury, which is a settlement identified for growth within the development plan. However, I do not agree. Pontesford is focused around a central nucleus of development. Whilst Pontesbury is located a short distance to the south west, it is separated by open fields. The sporadic dwellings along the road between the two settlements are not continuous development linking the two settlements. Furthermore, properties within Pontesford have been developed in a loose-knit pattern, with no uniform grain, typical of a rural settlement. In marked contrast, Pontesbury has a much more formal pattern and grain to its development, creating a more urban character.
19. The appellant argues that the ground levels of the appeal site would enable the dwelling to be partly below the ground level of the road, thus reducing its visual impact from public views. However, from the observations I made on site, I share the Council's view that due to the constraints of the site, notably the water course running through it and the varying site levels, it is difficult to conceive how the dwelling would be sited. In any event, the introduction of a dwelling on this site would create a form of built development that would erode the openness of the site.
20. Furthermore, the existing site provides a buffer between the predominantly residential development to the north and the commercial development to the south. The proposal would diminish this buffer, resulting in the amalgamation of the development to the north and south, creating a significant length of continuous linear built form along the east side of the road, which would fail to respect the more nuclei focused pattern and grain of Pontesford. As such, it would significantly harm the rural character of the settlement and the AONB.
21. The appellant argues that in their pre-application advice the Council indicated that an affordable dwelling would be acceptable on the site. However, this was only in principle. The Council make no conclusion on the effect it could have on the character and appearance of the area. Indeed, in respect of the section on 'Scale and Design', it states that an appropriate solution to the multiple and potentially conflicting constraints of the site may prove difficult to find.
22. I find therefore that the proposal would significantly harm the character and appearance of the area and would fail to conserve or enhance the landscape of the AONB. As such, it would fail to comply with Policies CS6 and CS17 of the CS and Policies MD2 and MD12 of the SAMDev, which, amongst other things,

seek to ensure that development respects and enhances local distinctiveness; responds appropriately to the form and layout of existing development, contributes to local distinctiveness, including the AONB; and, avoids harm to Shropshire's natural assets. It would also fail to accord with the design objectives of the Framework.

Flooding

23. The Council confirms that the water course running through the site is known to have flooding problems. The appellant contends that this has since been resolved through recent improvement works to surface water drainage through the reinstatement of storm drains.
24. Notwithstanding these works, there is a dispute between the parties as to what flood zone the site falls within. The appellant states that it is within Flood Zone 1. However, the Council contends that as there is no modelled flood outline for the water course that runs through the site, the surface water flood map should be used as an initial guide to the extent of the flood plain associated with that watercourse, which indicates that the site is in Flood Zone 3. Therefore, I consider that in the absence of any evidence to the contrary, the site should be considered to fall within Flood Zone 3.
25. Footnote 50 of the Framework states that a site-specific flood risk assessment should be provided for all development within Flood Zones 2 and 3. The National Planning Practice Guidance (PPG) clearly identifies 'buildings used for dwelling houses' as 'more vulnerable' development. Paragraph 158 of the Framework requires the application of a Sequential Test in decision taking in order to steer new development to areas with the lowest probability of flooding. It goes on to state that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
26. It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately, the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.
27. In the absence of a flood risk assessment, it is not possible to ascertain the effect of the development on flooding or vice versa. Whilst the recent improvement works may have improved the risk of flooding, there is no evidence to indicate that the current risk is acceptable.
28. I find therefore that it has not been satisfactorily demonstrated that the proposal would not represent an unacceptable risk to flooding. As such, it would be contrary to Policy CS18 of the CS, which seeks to ensure that development reduces flood risk. It would also fail to accord with the Framework's aim of directing development away from areas of highest flood risk.

Biodiversity

29. The Council argue that an environmental corridor runs through the site which has the potential to support a number of protected species. In light of this, an Ecological Survey was carried out by Churton Ecology, dated 28 November 2018. The conclusion of the report was that there are no priority habitats within the site and the habitats that are present are of negligible importance. It also notes that the water course is culverted for considerable distances and polluted and therefore does not provide the connectivity, food resources and overall water quality required by species such as Otter, Water Vole and White-clawed Crayfish. Furthermore, the site is located adjacent to a busy road with streetlights, thus reducing the likelihood of there being bats on the site.
30. Overall, despite the site being located within an environmental corridor, it is of limited ecological value. Therefore, in the absence of any evidence to the contrary, I am satisfied that the proposal would not have any significantly harmful effect on biodiversity. Indeed, it may offer the opportunity to improve the ecological value of the site. As such, I find no conflict with Policy CS17 of the CS or Policy MD12 of the SAMDev, which seek to ensure that development protects and enhances Shropshire's environmental assets. It would also accord with the design objectives of the Framework.

Other Matters

31. I note the article referred to me by the appellant regarding an appeal in Lancashire¹. However, a copy of the Inspector's decision is not before me and therefore I cannot be certain that there are any direct comparisons with the current appeal. Accordingly, I attribute very limited weight to this matter. I have also had regard to the appeal decision for the site in Chedgrave². However, the development plan policies for the Chedgrave scheme appear to be markedly different to Shropshire's and therefore I cannot draw any direct comparison with the proposal before me that weighs in its favour.
32. The proposal would make a positive, albeit limited, contribution to the supply of housing in the area, which is a social benefit. Furthermore, the construction of the dwelling would likely create construction jobs and utilise materials from local merchants. Therefore, there would be some economic benefit.
33. Furthermore, it could provide improvements to biodiversity. However, due to the limited facilities within Pontesford, the occupants of the dwelling would likely rely on the private car to access many services, facilities and employment opportunities, although I accept many of these could be found via a short drive to Pontesbury. In addition, as I have identified above, the dwelling would have an unacceptable effect on the character and appearance of the area and the AONB. Therefore, it would have a harmful effect on the environmental dimension of sustainable development. I do not consider that the limited social and economic benefits would outweigh this harm.
34. I acknowledge the support for the proposal from neighbouring residents. However, my assessment has been based on the planning merits of the proposal.

¹ Planning Resource article dated 20 February 2019

² Appeal Ref APP/L2630/W/17/3167831

35. I note the concerns raised regarding overlooking. However, despite the appearance of the dwelling being reserved for future consideration, I am satisfied that were I minded to allow the appeal, due to the ground levels and distances from neighbouring properties, any potential overlooking could be adequately addressed.

Conclusion

36. Whilst the proposal would provide limited socio-economic benefits and would potentially provide improvements to biodiversity, I do not consider that this outweighs the overall significant harm it would have on the Council's housing strategy, the character and appearance of the area, including the AONB, and the risk to flooding.

37. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR