



Appeal Decision

Site visit made on 19 April 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2022

Appeal Ref: APP/L3245/W/21/3284500

Land adjacent Shrewsbury Road, Church Stretton SY6 6EX

- 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 and Mrs JN and SA West against the decision of Shropshire Council.
 - The application Ref 18/01258/OUT, dated 14 March 2018, was refused by notice dated 14 April 2021.
 - The development proposed is the erection of 5 No dwellings, to include means of access (re-submission and amended description).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with matters other than access reserved for future consideration. I have determined the appeal on this basis, treating any supporting plans as illustrative.
3. The description of development in the planning application form specifies six dwellings. However, the description in the banner heading above is taken from the decision notice as this more accurately describes the proposal, which was amended to five dwellings. The Council's officer report and the indicative layout plan show five dwellings. I have proceeded on this basis.
4. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021 after the determination of the planning application. Both parties have referred to the revised version in their respective evidence and neither would therefore be prejudiced by my consideration of it. I have therefore determined this appeal in the context of the revised Framework.
5. Both main parties and the Church Stretton Town Council refer to the emerging Shropshire Local Plan (2016 - 2038) (ELP). However, I understand this document has yet to progress through examination. The Council advises that very limited weight can be afforded to this plan in their officer report, and I concur with this assessment. As such, I have not considered matters of prematurity further.

Main Issues

6. The main issues are as follows:

- The effect of the proposal on the character and appearance of the area with particular regard to the loss of trees and the impact on the Shropshire Hills Area of Outstanding Natural Beauty (the AONB);
- The effect of the proposal on biodiversity; and
- Whether the proposal would accord with the Council's housing strategy in terms of its location.

Reasons

Character and Appearance

7. The appeal site includes some outbuildings, one of which appears to have functioned as a shower block and toilets for the former campsite operation. It otherwise appears as a field largely enclosed by trees with some discreet evidence of its former use, such as the electrical connection points. The site is adjacent a railway line and vehicular access is taken from a track which branches off from Shrewsbury Road to the west.
8. From the evidence before me, alongside my own observations on the site visit, the special qualities of the AONB in part derive from its varied landscape which includes numerous farms and woodlands set across rolling hills and valleys. The agricultural appearance of most of the outbuildings along with heavy tree coverage means the appeal site contributes positively to the character and appearance of the local area and the wider qualities of the AONB.
9. Set against this intrinsic countryside character, the introduction of 5 dwellings, associated hardstanding and formalising of garden areas would represent a significant urban incursion into a predominantly rural locality and partially erode the scenic beauty of the local landscape and special qualities of the AONB.
10. Although there is a modern housing development to the south, this is across a large open field and as such the appeal site appears visually separated from the main built-up part of Church Stretton. I am also directed towards land nearby which is allocated for employment use in the SAMDev and is evidently to be retained in the ELP. Be that as it may, this has been allocated for some time and has yet to be developed in this manner and there is no guarantee this will occur. Moreover, the land would be of materially different use to the appeal proposal.
11. My attention is drawn to the 'Shropshire Landscape & Visual Sensitivity Assessment' (Gillespie's, November 2018). Church Stretton is divided into sub-areas, with the appeal site located within sub section 10CST-E. Part of the description of the area states 'tree cover is scattered across the landscape but mostly concentrated along field boundaries. Settlement comprises dispersed farmsteads and properties.'
12. The appellant forwards that the area around and including the appeal site has the lowest landscape sensitivity for employment development and is the most suitable area for housing development in the town. However, the appeal site is not located within the town development boundary and from my interpretation

of the data, this sensitivity is actually 'medium-high'. Moreover, the proposal before me is for housing, to which the sub-area has a medium landscape and medium-high visual sensitivity to housing. This assessment aligns with my own observations on the site visit.

13. This harm would be compounded by the substantial loss of trees, which is indicated at over 60. The fact that a number of these are leylandii does not convince me this loss, and subsequent harm, is acceptable given the positive contribution trees make to the wider scenic qualities of the AONB and the more immediate area. The loss of this many trees in an intimate setting such as the appeal site would represent a substantial harming of the landscape while also opening the site up to longer range views of the development. Although I take on board that the appellant would be amenable to a landscaping scheme to replace these trees, these would take a significant amount of time to mature and in the short to medium term this harm would be very apparent in the area.
14. As such, the proposal would have a substantially harmful effect on the character and appearance of the area and the scenic beauty of the AONB. It would therefore be contrary to Policies CS6 and CS17 of the CS as well as Policy MD2 of the MDP. These require, amongst other things, development to conserve and enhance the natural environment, local context and distinctiveness. The proposal would also be contrary to guidance in the Framework, which advises at paragraph 176 that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, among others, which have the highest status of protection in relation to these issues.

Biodiversity

15. Paragraph 99 of Circular 06/2005¹ states that developers should not be required to carry out surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.
16. The Council contend that the proposal has the potential to affect protected species due to the loss of trees and associated impacts on habitats. The appellant has submitted a Phase One Habitat Survey (Arbor Vitae – February 2017), which concludes that, with appropriate mitigation, the proposal would not harm biodiversity at the site. It also advises that the trees have minor ecological interest, and their removal would likely not adversely affect bats, breeding birds or Great Crested Newts.
17. Although the Survey is now of some age, the Council has not substantiated its reason for refusal in this regard. As such, subject to the mitigation proposed and the agreement of appropriate conditions to replace trees and enhance biodiversity features, there is nothing before me to indicate the removal of trees would harm biodiversity.
18. Overall, despite the site being part of a wider environmental network, it is evidently of limited ecological value. Therefore, in the absence of any evidence to the contrary, I am satisfied that the proposal would not have any

¹ Biodiversity and Geological Conservation-statutory obligations and their impact within the planning system - ODPM

significantly harmful effect on biodiversity. As such, I find no conflict with Policy CS17 of the CS, which seeks to ensure that development protects and enhances Shropshire's environmental assets. It would also accord with paragraph 180 of the Framework, which advises if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Housing Strategy

19. Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy (CS) (March 2011) outlines the strategic approach to development across the plan area. This details a hierarchical approach to residential development towards Shrewsbury (25% share), Market Towns and other Key Centres (40%) and rural areas (35%). This is supported by Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) (adopted December 2015), which states sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres and the Community Hubs and Community Cluster settlements.
20. Policy CS3 of the CS states that the Market Towns and other Key Centres will maintain and enhance their roles in providing facilities and services to their rural hinterland. It goes on to state that balanced housing development will take place within the towns' development boundaries and on sites allocated for development. Church Stretton is identified as a Market Town in the settlement hierarchy.
21. Policy S5 of the SAMDev states Church Stretton will provide a focus for development in this part of Shropshire, with a housing guideline of about 370 dwellings for the period 2006-2026. This will be delivered through the allocation of greenfield sites together with windfall development which reflects opportunities within the town's development boundary as shown on the Policies Map. The appeal site is not allocated for residential development and although it would constitute a windfall site, it is not within the town development boundary.
22. Policy CS5 of the CS allows certain new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development types including dwellings for essential countryside workers and conversion of rural buildings. The proposal would not fall into any of the identified examples. Although the appellant has submitted an agreement pursuant to Section 106 of the Town and Country Planning Act 1990 regarding the provision of affordable accommodation there is no substantive evidence regarding local need, which the policy requires such accommodation to serve.
23. Similarly, Policy MD7a advises that further to Core Strategy Policy CS5 and CS11, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Suitably designed and located exception site dwellings and residential conversions will be positively considered where they meet evidenced local housing needs and other relevant policy requirements. As the proposal is for open market dwellings in the countryside, it would fail to accord with Policies CS5 and MD7a.

24. My attention is drawn to a legal judgement² which advises the only strict control over development in the countryside is in respect of paragraph 80 of the Framework which seeks to avoid isolated homes in the countryside. In this sense, it is argued that the countryside should not have blanket protections. Be that as it may, the judgement also makes clear that regard must also be had to the other core planning principles favouring sustainable development, as set out in the Framework. These include matters relating to character and appearance and biodiversity. I have already found that the proposal would not be acceptable with regard to harm caused to the character and appearance of the area. Moreover, section 38(6) of the Planning and Compulsory Purchase Act 2004 makes clear that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
25. Policy MD3 of the SAMDev states that where a settlement housing guideline appears unlikely to be met, additional sites outside the settlement development boundaries that accord with the settlement policy may be acceptable subject to the considerations in paragraph 2.
26. I note that the Council initially accepted that the number of dwellings relative to the guideline in Church Stretton has not been met, while the likelihood of deliveries of outstanding permissions could also be accepted as unlikely given the deletion of an allocated site in the ELP which would have provided up to 37 dwellings.
27. However, the recently published 'Five Year Housing Land Supply Statement' (Shropshire Council February 2022) (HLSS) indicates that overall, the Council can demonstrate more than a five-year supply overall. In any event, there is nothing substantive before me to indicate that the identified shortfall of 87 dwellings in Church Stretton would not be met before the plan period expires or that this shortfall would be boosted significantly in the short term by the approval of five dwellings in this case, albeit that would carry obvious benefit.
28. Therefore, while some criteria of paragraph 2 of Policy MD3 may be met, it also requires an assessment of the impacts of the development, including the cumulative impacts of a number of developments in a settlement and the presumption in favour of sustainable development. I have identified substantial harm to the character and appearance of the area and the scenic beauty of the AONB in this regard.
29. Although both the SAMDev and CS identify Church Stretton as suitable for growth, with housing delivered within the development boundary primarily on windfall sites, the appeal site is located outside this boundary in the countryside where housing development is strictly controlled. Although the ELP evidently proposes to delete most of the previous allocations from the SAMDev and CS within Church Stretton, this is given limited weight in my assessment regardless.
30. Based on the above, the proposal would fail to accord with the Council's housing strategy overall, as embodied by Policies CS1, CS3 and CS5 of the CS and Policies S11, MD1, and MD7a of the SAMDev. It would also fail to accord with the housing and spatial objectives of the Framework.

² Borough of Telford and Wrekin v SoSCLG and Gladman Developments Limited [2016] EWHC 3073 (Admin)

Other Matters

31. I have had regard to concerns raised by the appellant about the way that the Council handled the application, including the pre-application advice received which was positive. While pre-application advice is a useful tool to enable an early understanding of the likely site constraints of a proposal, this is not a guarantee of planning permission at a later date. Moreover, this does not affect the material planning considerations of the case. I have considered this appeal proposal on its own merits and any complaints should be raised with the Council directly.

Planning Balance and Conclusion

32. The Framework generally seeks to significantly increase the supply of housing. The proposal would add five dwellings to the Council's existing stock and includes the provision of affordable accommodation as secured by the Section 106 agreement. However, I have nothing substantive before me to demonstrate that the Council as a whole cannot demonstrate a 5-year supply of housing land. I do however agree that having a 5-year housing land supply is not a ceiling to further development and I give the provision of housing on previously developed land in an accessible location substantial weight.
33. Although the appellant disputes the deliverability of some of these sites within Church Stretton and argues there is high demand in this town, these existing figures as demonstrated within the recent HLSS contribute towards a healthy overall supply across the plan area. Whether I take the figure of 5.6 or 7.4 years, it is apparent the Council is on course to meet their requirements in this regard. In any event, there would be further socio-economic benefits through the increased number of nearby residents which would in turn increase local spend and sustain local services and facilities.
34. There is no doubt that the benefits of this proposal are considerable, and in that respect the proposal would broadly accord with many of the policies of the development plan. However, I have concluded that the proposal would not accord with the housing distribution and spatial strategy for the plan area and would cause harm to the character and appearance of the area, including the scenic beauty of the AONB. This would bring the proposal into conflict with a number of policies of the CS and SamDev and hence the development plan as a whole.
35. Therefore, in the overall planning balance, although considerable, the benefits of the proposal are not sufficient in this case to outweigh the harm I have identified and the conflict with the development plan. The proposal would not therefore be sustainable development in accordance with the Framework and consequently would also fail to comply with Policy MD3 of the SAMdev.
36. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude, on balance, that the appeal should be dismissed.

C McDonagh

INSPECTOR