



Appeal Decision

Site visit made on 19 April 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2022

Appeal Ref: APP/L3245/W/21/3280177

Little Onny, A489 from B4370 junction Horderley to A49 junction The Grove, Horderley, SY7 8HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Bound against the decision of Shropshire Council.
 - The application Ref 20/04268/FUL, dated 15 October 2020, was refused by notice dated 15 July 2021.
 - The development proposed is described as 'Erection of an eco self-build replacement dwelling for an agricultural worker and garage with septic tank and associated works.'
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of an eco self-build replacement dwelling for an agricultural worker and garage with septic tank and associated works at Little Onny, A489 from B4370 junction Horderley to A49 junction The Grove, Horderley SY7 8HT in accordance with the terms of the application, Ref 20/04268/FUL, dated 15 October 2020, subject to the following conditions in the attached schedule.

Preliminary Matter

2. The appellant has submitted a tree survey as part of their appeal documents. It was provided in response to one of the Council's reasons for refusal. The Council has had opportunity to comment on it. I have, on this basis, taken the survey into account in my decision.

Main Issues

3. The main issues are a) whether the size of the replacement dwelling would be acceptable; and b) the effect of the proposed development on trees.

Reasons

Replacement Dwelling

4. Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev) sets out how the Council will manage new housing in the countryside. It explains that replacement dwellings will only be permitted where the dwelling to be replaced is a permanent structure with an established continuing residential use. Such dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case. Where the original dwelling had been previously extended or a larger replacement is approved, permitted development rights will normally be removed.

5. There does not seem to be any debate in regard to the existing dwelling being a permanent structure with an established continuing residential use. Despite not being occupied since 2019. In addition, the Council do not object over the fact that the proposed replacement would not be on the same footprint as the existing. However, I note from the plans that there would some overlap. I am also mindful that a larger replacement building would not strictly be, in the true sense, on the 'same' footprint in any event.
6. I understand the need to control replacement of dwellings in the countryside, where regard should be had to visual, heritage loss and other impacts and other policies of the development plan. In the case of residential properties, there is additionally the objective of regulating the size of replacement properties in order to limit the tendency towards the provision of larger dwellings in the countryside and to maintain a mix of dwelling types.
7. The existing dwelling is very small considering the number of bedrooms it has. One of which is housed in the garage which is impractical. Considering its condition, layout, construction and internal room size, it strikes me as being substandard for modern living and would likely need significant work to make it so. Having regard to the needs of modern living in the context of the existing dwelling, any replacement thereof would represent something of substance. MD7a does not rule out a larger replacement dwelling. Only saying that one could not be materially so. The development plan doesn't seem to define materiality in this context.
8. The proposed dwelling would, according to the Council, be in the region of twice the floorspace of the existing at most. That floor space would however be contained within a contextually modestly sized and scaled building with rooms in its roof space. The amount of accommodation provided would be far from excessive, taking into account space for a family and what appears to be an established business. In addition, the Council do not allege any other harms arising out of the larger size proposed, having regard to other policies of the development plan. Furthermore, I have not been provided with any details of the value of the existing dwelling to set against the proposed and thus be able to say with any certainty that the existing one was inherently 'affordable'. Or indeed whether there is an evidenced imbalance of larger dwellings in the countryside, such that this one would exacerbate any existing 'problem'. I am also mindful that, as an existing dwelling, substantial works could be undertaken thereto without the need for express planning permission.
9. Taking all of the above into account, the size of the proposed dwelling would be acceptable and thus I don't find conflict with SAMDev Policy MD7a. The aims of which I have set out above.
10. The Council also set out that the appeal scheme would conflict with Policies CS5 and CS11 of the Shropshire Council Local Development Framework: Adopted Core Strategy (2011) (CS). The former concerns, amongst other unrelated matters, new development in the countryside. That being so, and relevant to the appeal scheme, the proposed development would not be a new dwelling in the sense of nothing going before which is what this policy on the whole considers. As a replacement, and acceptably so under my assessment, the appeal scheme falls to be considered under SAMDev MD7a.
11. CS11 concerns itself with housing type and affordability. Its opening gambit refers to the need to meet diverse housing needs and create mixed and

balanced communities. Achieving that by, amongst other things, seeking housing developments which help to balance the size, type and tenure of local housing stock. Referring to my earlier comments, paragraph 8 specifically, there is nothing compelling before me to suggest that the proposed development would create an imbalance of housing size, type or tenure. I do not therefore see conflict with this policy.

Trees

12. Whilst the site does not lie within an area of ancient woodland, TPO or conservation area, there are a number of trees on site. The appellant has submitted a tree survey with the appeal which notes that, whilst no trees would be required to be felled as part of the construction of the proposed dwelling, there would be some tree removal required to facilitate the access track. It is noted from the submission and my site visit that those trees identified as being affected had been felled.
13. The appellants submission details the retention of the majority of the trees. There could be some impact on the roots of some trees due to construction works. However, the survey identified root protection areas (RPAs) and proposed no-dig construction methods to ensure that the trees would not be harmed. As such, subject to a condition securing the works in line with the report, the proposed development would not have a harmful impact on trees.
14. The proposal, subject to conditions, would therefore comply with CS Policies CS6 and CS17 and SAMDev Policies MD2 and MD12 which seek, amongst other things, to ensure developments does not have a significant adverse impact on environmental assets. The proposed development would also be compliant with paragraph 180 of the National Planning Policy Framework (the Framework) which sets out, in regard to this main issue that deterioration of irreplaceable habitats should be refused.

Other Matters

15. The appeal site is located in the Shropshire Hills Area of Outstanding Natural Beauty (AONB). Section 85 of the Countryside and Rights of Way Act 2000 (CROW) places a duty on relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of an AONB. Paragraph 176 of the Framework requires "great weight" to be given to those matters in decision making. The proposal would replace an existing dwelling at the site with a modest timber clad dwelling. The siting of the proposed development within site and the retention of boundary trees ensures that the proposal would not result in unacceptable impacts on the AONB.
16. The description of development makes reference to the dwelling being for an agricultural worker. As the existing dwelling had no occupancy restriction, I do not consider it necessary to restrict the dwelling to agricultural workers. Additionally, the Council have also considered the proposed development as an open market dwelling. It is also said to be of the eco type and a self build project. Laudable though such approaches would be, they have not matters on which this decision has turned, with the focus of the relevant main issue being the scheme's size as a replacement dwelling.

Conditions

17. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). I have altered the wording of some conditions in order to ensure they comply with the PPG. I consider a condition relating to the approved plans to be necessary in the interest of clarity, as well as the standard time condition. A condition regarding the submission of materials is necessary in the interest of the character and appearance of the area and due to them not being specified elsewhere. The drainage condition is required in order to ensure a drainage scheme is fully implemented prior to the use of the dwelling, in the interests of the scheme's proper functioning.
18. I have given careful consideration to the inclusion of the condition removing permitted development rights. Having had regard to the PPG's advice on the inclusion of such restrictive conditions in specific circumstances. In this instance, the proposed development, whilst currently not harmful, if altered or extended could have a harmful effect on the character and appearance of the area. As such, I consider the condition to be necessary.
19. I do not consider the condition regarding the submission of an arboricultural impact assessment to be necessary as one has been submitted with the appeal. The recommended actions of which will be conditioned. I do not consider a condition relating visibility splays to be required as these are detailed on the plans and highway advisors have not objected to them. I have no reason to disagree with this.

Conclusion

20. For the above reasons given above, having considered the development plan as a whole, the approach of the Framework and all other relevant material considerations, the appeal should be allowed.

Tamsin Law

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall be carried out in accordance with the following approved plans and drawings; HEAL_OCH_PP_01, HEAL_OCH_PP_02 A, HEAL_OCH_PP_03 A, Elevations, Ground Floor First Floor, Section, TR/001, TR/002 and TR/003.
- 3) Prior to the above ground works commencing, samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
- 4) No development shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).
- 5) The construction of the development hereby permitted shall be carried out in strict accordance with Sections 8 and 9 of the BS5837 Tree Survey, Arboricultural Impact Assessment and Method Statement (August 21).
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 classes A, B, C or E shall be erected, constructed or carried out.