

Appeal Decision

Site visit made on 13 June 2016

by Mandy Lewis BA (Hons) DipTP MRTPI

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

Decision date: 18 August 2016

Appeal Ref: APP/L3245/W/16/3145822

Jessamine Cottage, School junction southwest of Hughley to New House Farm junction Hughley, Shrewsbury SY5 6NS

- 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 & Mrs P & L Wheeler against the decision of Shropshire Council.
 - The application Ref 15/02804/OUT, dated 29 June 2015, was refused by notice dated 1 October 2015.
 - The development proposed is a single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application is outline with all matters, apart from access reserved for later consideration. I have dealt with the appeal on this basis. However, the application was accompanied by a plan number SA16664/01 which showed a layout for 1 bungalow and a garage to which I have had regard. Although, I have treated this for illustrative purposes only.
3. The Site Allocations and Management of Development Plan was adopted on 17 December 2015 following the refusal of the planning application and prior to the submission of this appeal. The appeal has been considered against the newly adopted plan, and the existing Core Strategy adopted 11 March 2011.

Main Issue

4. The main issue in this appeal is whether the proposed dwelling can be justified having regard to development plan policies for development in the countryside.

Reasons

5. The appeal site consists of an area of land to the east of Jessamine Cottage. The area is currently used as part of a show garden with an ancillary plant nursery, market garden, shop and tearoom. The café and shop are proposed to be demolished to be replaced by the proposed bungalow.
 6. The appeal site is part of the dispersed settlement of Kenley. The other villages of Church Preen and Hughley are nearby. The development through the village is ribbon like, along the winding rural lanes and is commonly set
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back and well screened. The village has a Church and a village hall and is close to a primary school but there are no other services and no access to public transport.

Whether the proposed dwelling can be justified having regard to development plan policies for development in the countryside

7. The appeal site is not situated in any of the Hubs or Clusters as referred to in Policy CS4 of the adopted Shropshire Core Strategy and defined in Policy MD1 of the Site Allocations and Management Development Plan (SAMDev) which was adopted on the 17 December 2015. It is considered that the appeal site is within open countryside.
8. With regards to the management of housing outside hubs or clusters Policy MD3 of SAMDev seeks to compliment the delivery of the SAMDev settlement Policies S1 to S18 and the approach to the delivery of housing set out in the Core Strategy, underpinned by Policy CS1. Paragraph 3.18 of Policy MD3 of SAMDev explains that windfall housing can come forward in the countryside, if the proposal has regard to the housing and countryside policies of the Core Strategy and SAMDev.
9. Policy CS5 of the Core Strategy and Policy MD7a of SAMDev seeks to strictly control open market housing in the countryside, supporting development in the identified hubs, clusters and market towns. The policies are permissive with regard to affordable housing for local needs, dwellings for agricultural, forestry and other essential workers.
10. The development is not for any special housing needs specifically identified in the Local Plan policies. However, the appellant states that the proposed bungalow will be designed for adaption to later life needs and this supports the Government Social Care policy that enable the elderly to remain in their community.
11. I acknowledge that Planning Practice Guidance paragraph 37 states that in decision taking evidence for development proposals for accessible and manageable homes specifically for older people will free up under occupied local housing for other population groups and is likely to demonstrate a market need that supports the approval of such homes. I also note that Core Strategy Policy CS11 and the Type and Affordability of Housing Supplementary Planning Document (SPD) address the need for provision for the elderly in the Borough.
12. Paragraph 5.11 of the SPD sets out a specific test to help evidence housing need. The appellant has submitted no substantive evidence to meet that test. Furthermore, no mechanism such as a completed obligation or agreement is before me which would enable the secure delivery of the proposal to specifically meet elder person housing need both now and in the future. Without such a mechanism I cannot therefore be certain that the proposal would result in anything other than the provision of an open market dwelling which would directly conflict with the housing delivery aims of the Core Strategy and SAMDev.
13. The proposed open market house in the countryside location, outside of a recognised community hub or cluster conflicts with Policies CS1 CS4, CS5, CS6 and CS 11 of the Shropshire Core Strategy and Policies MD3 and MD7a of the Site Allocations and Development Management Plan.

14. The appellant states that the Council cannot demonstrate a 5 year housing land supply. If this were the case then paragraph 49 of the National Planning Policy Framework (Framework) is relevant and paragraph 14 of the Framework would be engaged. The appellant considers the appeal site is not isolated and the development would deliver economic, environmental and social benefits as set out in paragraph 14.
15. I acknowledge that the appeal site may be in one of the more densely clustered parts of Kenley, known as Kenley Common. However, the appeal site is 4.5 miles from the market town of Much Wenlock which is the closest location which offers a range of retail and leisure services. Whilst paragraph 55 of the National Planning Policy Framework supports that groups of smaller settlements may support services in a village nearby that should be balanced against the avoidance of creating isolated homes in the countryside.
16. I note that in the previous appeal, reference APP/L3245/H/15/3000886, the Inspector felt the appeal site had an isolated feel. I acknowledge that there is some development close by to the appeal site but it is significantly screened which adds to an appearance of an isolated site. To my mind the term isolation also relates to a home, which in planning terms would be remote from day to day services. I acknowledge that there is a school and nearby primary school, however every other service or facility that may be required lies outside of the village.
17. During my visit to the appeal site I walked along the surrounding lanes and visited other developments nearby. I noted that the winding rural lanes were largely free from pavements and unlit. I did walk along some grass verges when available but in my opinion the use of grass verges for a pedestrian to safely move around are not a suitable replacement for a more easily accessible pavement. The winding and sometimes steep and narrow rural lane would also be challenging for many cyclists. I consider this would realistically limit the option of cycling to reach necessary daily services to very confident and experienced cyclists. Furthermore I note that it is 3 miles from the appeal site to access regular bus service between Shrewsbury and Bridgnorth.
18. I note that the appellant considers that the rural dwellers make less unnecessary car journeys and that rural car use is more efficient resulting in less harmful emissions being generated. I also acknowledge that the role of the internet has changed shopping habits; however, an internet order necessitates a delivery which still represents vehicular use.
19. I acknowledge the lawful development certificate which has been issued since the previous appeal is a material change in the circumstances. The café and shop use is an established use which would attract visitors who would be mainly dependant on private car use to travel to the site. However the shop and café are small in scale and open sporadically. I noted during my visit there was a small area given over to car parking which indicated there would only be a limited number of visitors at any one time. The proposed house would create a development whose occupants would be likely to generate far more regular car journeys to access services than occasional visitors to the café or shop.
20. Regardless of the differences between urban and rural car use, the future occupier would be dependant on the private car and this proposal would result in the creation of a home with such limited choices in transport to access day to day services that I conclude in planning terms it would be isolated.

21. With regard to the three dimensions of sustainable development. The development would generate a very modest economic benefit from the construction of the proposal and the future expenditure of the occupants using local services, in market towns such as Much Wenlock. The development would also generate a modest social benefit as it may allow the donor house to be occupied by a family who could attend the local school and there would be increase Council Tax levy.
22. I would agree with the appellant that in terms of ecology, infrastructure and visual appearance the proposal would have a neutral environmental effect. In this regard the proposal is also compliant with the overall aims of Policy CS17 with regard to ecological and visual function of the site. However, with regard to transport, the proposal would be almost entirely reliant on the use of a private car which, regardless of the behaviour of the driver, would not help improve pollution, adapt to climate change or move towards a low carbon economy.
23. The proposal would therefore not create an environmental benefit and would create an isolated home and therefore the proposal would not constitute sustainable development.
24. The appellant has made reference to a variety of decisions made by the Council to highlight inconsistency in determining what constitutes sustainable development. These decisions are material considerations. I note that all the decision referred to by the appellant were all determined prior to the adoption of SAMDev.
25. The decisions at Kenley Hall and Old Hall Barn were applications for Prior Approval for a Change of Use from an agricultural use to a residential use. As such the Council would not have had the opportunity to determine the proposals using local plan policies as a prior notification proposal already has the principle of planning permission approved.
26. The development at Land North of New House met the relevant criteria for a single plot exception site and therefore met the policy requirement at the time of determination.
27. Both the developments at Mapp Farm and Maypole Bank involved the conversion of existing rural buildings and I do not consider they are an appropriate comparison to the proposal for a newly constructed dwelling as there are different policy tests.
28. The developments at Lower Wigmore Farm and west of Mulberry House were both for open market newly constructed dwellings which are more similar to the appeal proposal than the previous decisions. However, both sites, although in open countryside were considered to have access to public transport. The Lower Wigmore Farm site was also considered to have access to a basic level of service provision, including a shop, café, small number of business and a public house. The Mulberry House site was 1.8km from a nearby village with a greater range of services. These decisions are significantly different in terms of the provision of public transport close to the appeal site which offers a realistic alternative to the use of the private car and a much closer proximity to a wide range of services.

Other matters

29. A unilateral undertaking facilitating a financial contribution towards affordable housing provision has been agreed by the Council and the appellant.
30. On the 11 May 2016 the Court of Appeal overturned the previous High Court judgement and the policies from the Written Ministerial Statement of 28 November 2014 can once again be considered as national planning policy.
31. Even if I were to agree with the appellant that the Council could not demonstrate a 5 year supply of housing land, in light of my findings above on sustainability considerations, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. As such the WMS defines that contributions cannot be sought from residential developments of less than 10 units; the contribution for affordable housing can no longer be required. I have not therefore taken it into account in my decision.

Conclusion

33. For the reasons set out above I find the development conflicts with the relevant Policies in the Shropshire Core Strategy and Site Allocations and Development Management Plan and does not constitute sustainable development and having taken all matters into consideration, I conclude the appeal should be dismissed.

Mandy Lewis

INSPECTOR