
Appeal Decision

Site visit made on 15 August 2016

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 23rd December 2016

Appeal Ref: APP/L3245/W/16/3149201

Land off Hinwood Road, Asterley, Shropshire SY5 0AR

- 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 Asterley Equestrian Ltd against the decision of Shropshire Council.
 - The application Ref 15/02738/FUL, dated 24 June 2015, was refused by notice dated 27 October 2015.
 - The development proposed is the change of use from personal equestrian use to equestrian business use, extension of the stable block and blocking off access from the residential cul-de-sac, creation of an access track to the stables, erection of an associated dwelling, garage and office.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Although the application is made in the name of Asterley Equestrian Ltd, two directors of the company, Mr and Mrs Avery are referred to in the appellants' submissions as being those involved with the proposal, and I shall therefore refer to them as the appellants.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the Council's housing strategy for the area;
 - ii) the effect of the proposal on the character and appearance of the surrounding area,
 - iii) whether the rural business arguments justify an exception being made to policies which aim to restrict residential development in the countryside.

Reasons

Housing strategy

4. The appeal site comprises several fields to the north of, and abutting the built-up area of the village of Asterley. Shropshire Core Strategy (CS) Policy CS4 provides that in the rural area, communities will become more sustainable by focusing private and public investment in the rural area into Community Hubs and Community Clusters, and not allowing development outside these
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settlements unless it meets Policy CS5. Asterley is not one of the designated settlements and thus is treated as being part of the countryside.

5. In turn CS Policy CS5 repeats the strict controls applicable in the countryside, indicating that a number of exceptions may be made which include dwellings to house agricultural, forestry or other essential countryside workers. It also says that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to dwellings to house essential countryside workers, amongst others. It goes on to say that for such developments applicants will be required to demonstrate the need and benefit of the proposal and that developments will be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity where this is appropriate.
6. The proposal is not within a recognisable named settlement or linked to an existing business, and thus the proposal falls outside of the remit of this policy. I shall refer to the rural business arguments in more detail below.
7. The CS was adopted prior to the publication of the National Planning Policy Framework (the Framework) which does not preclude development in the countryside as strictly as set out in CS Policies CS4 and CS5. However, Shropshire Council Site Allocations and Management of Development (SAMDev) Plan was adopted more recently, in September 2015, and Policy MD7a embraces the control of development outside of the places identified in the CS policies to which I have referred. As the SAMDev Plan was found to be sound, having regard to the provisions of the Framework, I consider that the policies on which it is based should be considered to be broadly consistent with the Framework.
8. In the absence of a rural business related justification, the proposal would conflict with the above mentioned policies. Following the Teal Drive decision¹ and recent appeal decisions, the appellants accept that the Council can demonstrate a 5 year supply of housing land and therefore the relevant policies for the supply of housing land should not be considered to be out of date. In the absence of a rural business justification, which I shall examine below, the proposal would conflict with the Council's housing strategy for the area, and would conflict with the policies which I have referred to above.

Character and appearance

9. The proposed dwelling would be a large four-bedroom house with a detached triple garage. It and the proposed detached garage would be separated from the nearest part of the built-up area of Asterley by a small copse within the appeal site.
10. The house would be seen from Hinwood Road and from the public footpath which crosses the site to the south of the proposed dwelling. Although well-designed, the house would extend built development into an otherwise undeveloped field, and would encroach into the countryside. I find that this would cause some small harm to the intrinsic character of the countryside and would conflict with the aim of CS Policy CS5.

¹ Ref: Shropshire Council v Secretary of State for Communities and Local Government & Others [2016] EWHC 2733 (Admin)

Rural business and other benefits

11. The appeal site is currently used for equestrian purposes for recreational use, in connection with the appellants' home, The Stables, located immediately to the south-east of the appeal site, and from where access to the stables is obtained. The site, part of which was a former tip, has been developed over the last 14 years or so to provide stable buildings on the southern edge of the site, a ménage, and paddocks. The site has been improved with extensive planting and the provision of access ways.
12. The business is intended to be run by Mrs Avery, who has extensive equestrian experience and has a British Horse Society qualification, and both appellants have demonstrated having considerable business success in other ventures. The business would specialise in post-operative recuperation, in which a gap in the market has been identified, along with specialist riding instruction, the running of training events and the provision of opportunities for local horse owners to use their facilities. In addition to Mrs Avery, it is intended that there would be 2 part time employees.
13. The appellants are specifically not seeking a rural workers' dwelling, acknowledging that the proposal would not comply with the Council's size restrictions on such dwellings, although they are willing to accept an occupancy or live/work condition if deemed necessary. However, the rural business arguments are nevertheless relevant material considerations, and it is in any event appropriate to assess the proposal against the Council's policy for dwellings for rural workers.
14. Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD7a says that dwellings to house essential rural workers will be permitted if there are no other existing suitable and available affordable dwellings or other buildings which could meet the need, and, in the case of a primary dwelling to serve a business without existing permanent residential accommodation, relevant financial and functional tests are met and it is demonstrated that the business is viable in the long term and that the cost of the dwelling can be funded by the business.
15. Notwithstanding the appellants' business and equestrian knowledge and experience, the business would be a new venture, and is thus unproved, and there is no existing need. A number of letters from those with expertise and knowledge of the local equestrian market have supported the proposal, and this adds to the credibility of the proposed enterprise. However, the business has not yet commenced, and despite all the factors which the appellants' have referred to in support of the proposal, until the business is up and running, and it being shown that it is capable of being sustained in the long-term, the essential need for a dwelling has not been proved.
16. The appellants argue that the business cannot be established until there is a suitable dwelling, and that they are unable to show an existing need until the business has commenced. Whilst I understand this conundrum, I consider that the close physical relationship between the existing houses and the paddocks and stables provides a solid, if not perfect, opportunity at least to start the business. In my view, an essential need cannot be shown on the basis of a speculative enterprise, even one which is backed by the appellants' resources, experience, expertise and succession planning.

17. Furthermore, whilst I recognise that there is a need for someone to be on hand at all times to care for recuperating horses, I share the Council's view that the existing dwelling, just 25m or so away from the stables, would be suitably located to provide that close supervision. The proposed dwelling would be more than 170m away from the nearest stable building, with trees disrupting the line of sight. The appellants have referred to their experience of hearing the sound of disturbed horses in the stables from their home, but this would be more difficult at such a distance.
18. Whilst a house sited in the proposed location would offer better security for the site overall, other measures could be taken, which, whilst not as good as direct passive surveillance, may nevertheless help to deter thieves or trespassers, such as alarms, CCTV, infra-red cameras and motion sensors. In any event, security on its own is unlikely to justify a dwelling. As a public footpath runs across the southern part of the site, some distance away from the site of the proposed house, security is always likely to be an issue, and in my view, even without a direct line of sight, the existing dwelling is well-placed to provide close at hand supervision of the stables and closest paddocks.
19. I also consider that the large size of the dwelling would not be justified on the basis of a proven essential need. Whilst there may be a need for clients to stay at the premises, this demand is untested, and this adds to my concerns about the proposal.
20. I recognise that the proposal would benefit from both local and national policies which support rural enterprise, and I have had regard to the direct and indirect economic benefits which would flow from the business. Even so, the economic benefits would be relatively modest and do not outweigh the harm that I have identified above. I therefore find that the rural business arguments are insufficient to outweigh the harm that I have found, and that the proposal would conflict with SAMDev Policy MD7a.

Other matters

21. I have had regard to the support from local people. I have also taken into account that the proposal would enable the existing access to the stables, which is close to neighbours' houses, to be closed, eliminating a source of occasional noise. However, neither of these is sufficient to alter my conclusion.
22. I have also been told that the Council has acted inconsistently by approving new dwellings in circumstances said to be less deserving than this. However, I have insufficient information about all the arguments in those cases, and thus can afford them little weight. I recognise that the appellants have carried out significant investment in the site, improving its appearance from what I am told was a former tip. Whilst such improvements are to be applauded, they do not alter the balance of planning arguments in this case.

Conclusion

23. For the reasons given above, I conclude that the proposal would not amount to sustainable development, and would conflict with the development plan as a whole, and that the appeal should be dismissed.

JP Roberts
INSPECTOR