The Planning Inspectorate

Appeal Decision

Site visit made on 6 December 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 06 January 2017

Appeal Ref: APP/L3245/W/16/3157265
Karriholme, Nobold Lane, Nobold, Shrewsbury SY5 8NW

- 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 Mrs PA Roberts against the decision of Shropshire Council.
- The application Ref 14/01425/OUT, dated 28 March 2014, was refused by notice dated 1 March 2016.
- The development proposed is erection of a detached dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal was submitted in outline with only access to be decided at this stage and details of appearance, landscaping, layout and scale reserved for later consideration. Therefore, I have treated the submitted block plan as illustrative only. I have considered the appeal on that basis.

Main Issue

3. The main issue is whether the proposed development would be in a suitable location, given that the appeal site lies outside any development boundary.

Reasons

4. The appeal site is located within the small settlement of Nobold about 2.5 miles south west of the centre of Shrewsbury. It consists of a roughly square plot to the north of two existing bungalows and south west of six barn conversion units known as 'The Barns'. Despite its proximity to the outskirts of Shrewsbury, the site backs onto an agricultural field with a former farmstead opposite and the settlement is surrounded by open countryside giving it a rural character.

5. A strategic approach to development is elaborated in Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy (CS).[1] It focuses approximately 25% of housing development over the plan period 2006-2026 on Shrewsbury, with 40% allocated to market towns and other key centres and 35% elsewhere, as part of a 'rural rebalance' approach to make rural areas more sustainable. The Shropshire Council Site Allocations and

[1] March 2011

Management of Development (SAMDev) Plan[2] seeks to deliver the strategic objectives including sustainable development set out in the CS.

6. Amongst other things, the SAMDev aims to achieve the 'rural rebalance' referred to in CS Policies CS4 and CS5. It identifies rural settlements and community hubs and clusters where development would be predominantly focused. Policy CS4 indicates that development will not be allowed outside those community hubs and clusters unless it meets criteria specified in CS5. That policy strictly controls development in the countryside, reflecting national policy, limiting it to appropriate sites which maintain and enhance countryside vitality and character and improve the sustainability of rural communities by bringing local economic and community benefits.

7. CS5 encourages farm diversification schemes and dwellings for rural workers and other affordable housing to meet a local need. Whilst, the Council accept that the list is not exhaustive and includes conversions of rural buildings, CS5 does not generally countenance market housing being permitted in those locations.

8. Policy MD7a, in accord with policy CS5 of the CS, also says that new market housing will be strictly controlled outside of Shrewsbury, market towns key centres and community hubs and clusters. Exception site dwellings will be considered where they meet evidenced local housing needs and other policy requirements.

9. Nobold is not identified as a community hub or cluster within the SAMDev and is outside Shrewsbury's designated boundary defined in S16 of the SAMDev. The appellant accepts that, for planning purposes, it is classified as open countryside. Consequently, the proposal for a new market dwelling would conflict with the requirements of policies CS4 and CS5 of the CS and policy MD7a of the SAMDev.

10. The appellant suggests that Policy MD3 of the SAMDev allows for windfall sites providing they are sustainable development. However, the introduction to MD3 makes clear that whilst planning permission will also be granted for other sustainable housing such decisions will have regard to the policies of the Local Plan, including CS5 and MD7a. As already established they strictly control open market housing in the countryside and indicate that types of appropriate windfall development would relate to affordable housing to meet a local need, dwellings for rural workers and conversion of existing rural buildings. The proposal does not fall into those categories.

11. Parts 2 and 3 of Policy MD3 do refer to the presumption in favour of sustainable development but in the context of settlement housing guidelines which only apply to settlements identified in MD1 and S1-S18 i.e. market towns, key centres, community hubs and clusters. Nobold is not within those designations, and part 3 of MD3, which contemplates market housing outside settlement boundaries, only applies where a settlement housing guideline appears unlikely to be met. The Council hold that current indications are that housing targets will be met. Though that is disputed by the appellant, no clear evidence has been provided in support of that contention. Furthermore, the Council states that it can demonstrate a five year housing land supply which is acknowledged by the appellant in reference to appeal decision

[2] Adopted 17th December 2015

APP/L3245/W/15/3001117. The appellant also accepts that housing supply policies in the CS and the SAMDev are considered up-to-date.

12. Paragraph 11 of the Framework, referring to section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, specifically states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

13. The appellant submits that the proposed scheme should be determined in the context of the National Planning Policy Framework's (the Framework) 'presumption in favour of sustainable development' and paragraph 47's encouragement to 'boost significantly the supply of housing'. Paragraph 47, however, makes clear in its subsequent bullet points that the 'boost' should be delivered through the Local Plan. The appellant implies that these are material considerations which should override the development plan.

14. The appellant concedes that there may be some conflict with the Core Strategy but submits that there is a general compliance with the overall objectives and aspirations of the CS and the SAMDev to deliver sustainable housing development. I do not agree with that view and consider that there is clear conflict with development plan policies for the reasons already explained. As a demonstrable five year supply of housing has been accepted, neither do I agree with that view that the conflict is outweighed by the presumption in favour of sustainable development and the need to increase the supply of housing.

15. Furthermore, the presumption in favour of sustainable development exists within the circumstances set out in Paragraph 14 of the Framework. Local Plans are intended to be the means by which sustainable development is secured and delivered, as confirmed in Paragraph 15 of the Framework. Though the CS predates the Framework by a year, the Council carried out a conformity checklist exercise on the publication of the Framework in 2012 and I am satisfied that the CS policies relevant to this appeal are largely consistent with the Framework. Furthermore, the method of delivery is the SAMDev, adopted in December 2015, which was examined to ensure its consistency with the Framework.

16. The test for determining when the presumption in favour of sustainable development applies is contained within Paragraph 14 of the Framework. That test is whether the proposal is consistent or otherwise with an up-to-date Local Plan. Development that is in accord with an up-to-date Local Plan should be approved. Implicitly, therefore, the 3rd bullet point of Paragraph 14 directs refusal of a proposal that is inconsistent with a relevant and up-to-date plan. Such proposals cannot benefit from a presumption in favour of approval, as indicated by Paragraph 12. The scope for approval of proposals that conflict with an up-to-date plan is, therefore, limited. There is some opportunity depending on the weight given to the harm caused by conflict with the plan compared with benefits weighed against that conflict.

17. A planning permission for a dwelling immediately adjacent to the appeal site, Ref 14/02394/FUL, and another planning permission, Ref 14/0350/OUT, for two detached dwellings nearby are referred to by the appellant. However, as the Council points out, those permissions were approved prior to the completion of the examination and adoption of the SAMDev which could not be given full

weight. In relation to 14/02394/FUL, it is also clear from the Officer's Report that at that time the Council could not demonstrate a sufficient five year supply of housing land.

18. Consequently, the development plan could not be considered up-to-date and the application benefited, in accord with Paragraph 49 of the Framework, from the weighted balance detailed in the fourth bullet point of Paragraph 14. It states that where the relevant policies are out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. As the Council's ability to demonstrate a five year housing supply is not now in dispute, the appeal cannot be considered on that basis.

19. The appellant has also drawn my attention to three appeal decisions including Land adjacent to Park View, Broseley, Ref APP/L3245/W/15/3006489. It is pertinent that Broseley was identified by policy CS3 of the CS as a key centre, designated to accommodate additional development and though the site was outside the development boundary it was immediately adjacent to it. Furthermore, at that time the Council could only show a marginal five year supply of housing land whereas now it considers it has a healthy supply of 5.89 years.

20. The appeal site at The Bell Hotel Ref APP/L3245/W/15/3134152, though outside a development boundary, was part of a space used as an overspill car park for a public house and as a caravan site and considered to be previously developed land. It was on the edge of a village with a number of services and facilities. The decision also refers to a shortfall in the delivery of housing at that time. An appeal at Yew Tree Inn, Ref APP/L3245/W/3149461, though outside a development boundary, again relates to part of car park, which would also be considered previously developed land. Therefore, whilst there are similarities, I do not consider that there are direct parallels between the context and facts of those appeals and the appeal before me.

21. Five appeal decisions have also been cited by the Council[3] which adopt a similar interpretation of Policies CS5 and MD7a and their relationship with MD3 as I have above. The consistent line of reasoning in those decisions is that CS5 and MD7a strictly control new market housing in the countryside and limit it to certain exceptions. Though MD3 indicates that in addition to allocated sites, permission will also be granted for other sustainable development, that is subject to various polices including Policies CS5 and MD7a.

22. I have considered the various planning permissions and appeal decisions put to me but I find a more direct comparison with the appeal decisions referred to by the Council. In any event, I have considered the appeal on its own merits.

23. As the proposal would be contrary to development plan polices and should therefore, normally be refused, it is also necessary to consider if there are other material considerations that would justify approval. There would be some economic and social benefits during the construction period in terms of employment and materials and a contribution to the supply of housing. Future residents would make a contribution to the local economy and the community.

[3] APP/L3245/W/15/3138824, APP/L3245/W/16/3145470, APP/L3245/W/15/316043, APP/L3245/W/16/3150475 & APP/L3245/W/15/3138752

Inevitably, however, such benefits would be limited as the proposal consists of one dwelling. Furthermore, there is nothing to suggest that similar benefits could not be achieved by other proposals within development boundaries as the Council has a five year supply of deliverable housing land.

24. In environmental terms, the appellant submits that the appeal site is located 1km south of a local shopping centre at Radbrook and 500 metres south west of a convenience store in Meole village on the outskirts of Shrewsbury. There is a bus service on the nearby Longden Road and some local services and employment sites within the area. As I observed on my site visit, however, Nobold Lane is essentially a long country lane with very limited pavement or indeed verge. Similarly, Longden Road which is a busy main road connecting to the lane is not pedestrian-friendly. Therefore, I consider that it is likely that the majority of journeys associated with the development would be made by private motor car.

25. Furthermore, I agree with Council that the immediate vicinity of the site has a rural character backing onto an expanse of open countryside with converted barns and former farmsteads. The strategic approach, designations and allocations contained in the CS and the SAMDev and, in particular, Policies CS5 of MD7a are intended to strictly control and manage development in the countryside in accord with the Framework and paragraph 55.

26. The above factors, lead me to conclude that the proposed development would not be in a suitable location, given that it is outside any development boundary. It would, therefore, conflict with policies CS1, CS4 and CS5 of the CS, which amongst other things seek to focus development on market towns and other key centres, community hubs and clusters and only allow development outside development boundaries in limited circumstances.

27. The proposal would also be contrary to polices MD1, MD3, MD7a and S16 of the SAMDev insofar as they also seek to ensure development boundaries are respected and restrict new dwellings in the countryside to specific exceptions and other limiting criteria. Overall, I do not consider that there are sufficient significant material considerations that would justify departing from the policies of the development plan in this case.

Conclusion

28. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR