
Appeal Decision

Site visit made on 20 November 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 11th December 2017

Appeal Ref: APP/L3245/W/17/3179269

**Middleton Sidings, B4364 from Henley A4117 Junction to Stoke St
Milborough Junction West of Lackstone, Middleton SY8 3EA**

- 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 N Pound against the decision of Shropshire Council.
 - The application Ref 16/05371/OUT, dated 22 November 2016, was refused by notice dated 21 March 2017.
 - The development proposed is the erection of a dwelling and detached garage including the alteration to an existing vehicular and pedestrian access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on this basis.
3. Both parties have had the opportunity to comment on the recent judgement of *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)*. I will address this letter in this decision.

Main Issue

4. The main issue in this appeal is whether the proposal would accord with the Council's housing strategy in terms of its location.

Reasons

5. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. The policy goes on to state that development in rural areas will be predominantly in Community Hubs and Community Clusters.
6. 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. Ludlow is identified as one such Market Town. Policy S10 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015

- identifies Ludlow as the largest market town in southern Shropshire and that new housing development will be delivered primarily on the allocated housing sites east of the A49 alongside additional infill and windfall development within the town's development boundary.
7. Policy CS4 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets out how new housing will be delivered in the rural areas by focusing it in Community Hubs and Community Clusters, which are identified in Policy MD1 of the SAMDev.
 8. The appeal site forms part of a small field/paddock to the west of Middleton Sidings, which is located on the edge of the settlement of Middleton. Middleton is not identified within Policy CS3 of the CS as a Market Town or other Key Centre and nor is it identified within Policy MD1 of the SAMDev as a Community Hub or Community Cluster. Consequently, for the purposes of the development plan, it is considered to be located within the open countryside.
 9. Policy CS5 allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. This aligns with paragraph 55 of the National Planning Policy Framework (the Framework). Policy CS5 also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. Whilst the development does not fall into any of the identified examples, the list is not exhaustive.
 10. However, Policy CS5 is complemented by Policy MD7a of the SAMDev, which goes on to state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, it seems to me that although Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy MD7a of the SAMDev does. As the proposal is for an open market dwelling, it would fail to accord with Policies CS5 and MD7a.
 11. I note the appellant's argument that there are few Community Hubs and Clusters in South Shropshire within the hinterland of Ludlow. The settlement selection process of the SAMDev was not based solely on the more typical approach of selecting those with the greatest level of services and facilities. Settlements were put forward by communities. The Examining Inspector recognised this and acknowledged that as a result settlements that had traditionally been considered as suitable for development are now, in some cases, to be regarded as countryside for policy purposes. Nevertheless, this approach was deemed to be acceptable and the SAMDev was found to be sound and in accordance with the Framework.
 12. The Council confirms that communities within small rural settlements that are not classified as Community Hubs can still 'opt in' as a Community Cluster in response to the *Shropshire Local Plan Review Consultation on Preferred Scale and Distribution of Development* (the LPR), dated October 2017. I note the appellant's contention that the Bitterley Parish Plan (the BPP) recognises a need for housing in the area and the subsequent support this would give the local school. However, the BPP does not indicate how much additional housing is required. Furthermore, it is not clear when the BPP was produced. Much of the evidence gathering appears to have taken place between 2006 and 2008, well before the adoption of the CS and the SAMDev. Accordingly, I can only attribute the BPP limited weight. The opportunity to address any potential need for housing in the Parish would be through representations made to the LPR, none of which are before me. As the LPR is in its early stages, I attribute it very limited weight.

13. The Examining Inspector for the SAMDev recognised that a large number of the dwellings required in the rural areas must be provided through windfall sites. The explanation for Policy MD3 of the SAMDev also reinforces the importance of windfall development, both within settlements and in the countryside, including, where sustainable, greenfield sites. The opening paragraph to Policy MD3 clearly states that it is to be read in conjunction with the Local Plan as a whole, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a. Therefore, whilst Policy MD3 allows sustainable development, it must accord with the other relevant policies of the development plan. It is not to be considered in isolation. As the proposal would fail to accord with Policies CS3, CS4 and CS5 of the CS and Policies MD1 and MD7a of the SAMDev then it must also fail to comply with Policy MD3.
14. The Council confirms that they have a five year supply of deliverable housing land. The appellants do not dispute this although they state that it is not being delivered in South Shropshire. Ludlow has experienced periods of low delivery rates in recent years, far below that of the required annual build out rate of 50 units per annum. Nevertheless, as of 31 March 2017 there were 840 commitments and allocations. There is no substantive evidence that these dwellings will not come forward within the remaining lifetime of the plan. Furthermore, there is no substantive evidence that the remaining housing requirement for Ludlow could not be accommodated within the settlement boundary.
15. As the Council can demonstrate a five year supply of deliverable housing land, paragraph 49 of the Framework is not engaged. The SAMDev has relatively recently been adopted and found to be in accordance with the Framework. In addition, I find no inconsistency between the relevant policies within the CS and the Framework. The development plan has policies that are relevant to the supply and location of housing against which the appeal proposal can be considered. Accordingly, the relevant policies are considered to be up to date and consistent with the Framework. As such, bullet point 4 of paragraph 14 of the Framework is also not engaged.
16. I find therefore that the proposal would fail to accord with the Council's housing strategy, as embodied in Policies CS3, CS4 and CS5 of the CS and Policies S10, MD1, MD3 and MD7a of the SAMDev. Furthermore, it would fail to accord with the housing supply objectives of the Framework.

Other Matters

17. I have had regard to the various appeal decisions referred to me by the appellant and the Council. I acknowledge the similarities between the proposals and that there have been different interpretations of the development plan policies. However, it is not clear what evidence was before the Inspectors at the time. Whilst I have had regard to all of these decisions, I am not bound by them. I have determined the appeal based on an assessment of the evidence before me and the merits of the proposal. In this instance, the Council has provided compelling evidence that the proposal would conflict with the relevant policies of the development plan.
18. I have also had regard to planning permission ref 14/04459/OUT. Whilst finding that they had a five year supply of deliverable housing land and that relevant policies for the supply of housing were up to date¹, I find that the Council nevertheless incorrectly applied the tilted balance set out in paragraph 14 of the

¹ Paragraph 6.1.3 of the Development Management Report

Framework². Therefore, the approved scheme was not considered against the correct policy considerations. As such, I attribute only limited weight to this matter and do not consider that it represents any form of precedent.

Conclusion

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The statutory primacy of the development plan is reinforced in paragraphs 196 and 210 of the Framework and its first core principle is that planning should... "be genuinely plan-led."
20. The proposal would provide some economic benefit, albeit limited, by creating construction jobs and using local materials. Furthermore, it would make a positive contribution, again albeit limited, to the supply of housing and support the local school. The proposal would lie on the edge of Middleton and would be a natural extension to the existing built form and would not significantly harm the character and appearance of the area. I note that there is public transport serving the village, although the details of its frequency is not before me. Moreover, footways along the adjacent highway network are limited. Consequently, it is reasonable to conclude that the proposal would result in its occupants being heavily reliant on the use of the private car to access services, facilities and employment opportunities; although I acknowledge that this is commonplace in rural areas.
21. Overall, I find that the limited benefits of the proposal do not outweigh the harm it would have by virtue of it undermining the Council's housing strategy. As I have found that the development plan is not absent or silent, or the relevant policies out of date, the presumption in favour of sustainable development in paragraph 14 of the Framework does not apply.
22. I have had regard to the recent judgment of 15 November 2017³, concerning the interpretation of the term "isolated homes in the countryside" within paragraph 55 of the Framework. However, in that instance the Council could not demonstrate a five year supply of deliverable housing land and accordingly bullet point 4 of paragraph 14 of the Framework was engaged. As I have found that the Council can demonstrate a five year supply of deliverable housing land and bullet point 4 of paragraph 14 of the Framework is not engaged, in this instance, whether or not the proposal would be considered an isolated dwelling is not relevant.
23. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR

² Paragraph 6.1.7 of the Development Management Report

³ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)