



Appeal Decision

Site visit made on 6 November 2018

by Eileen Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 12 December 2018

Appeal Ref: APP/J1860/W/18/3207709

Land adjoining Shrub Villa, Clows Top, Worcester DY14 9HR

- 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 Tim Lawson against the decision of Malvern Hills District Council.
 - The application Ref 18/00314/OUT dated 22 February 2018 was refused by notice dated 7 June 2018.
 - The development proposed is erection of one detached dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form indicates the application was made in outline with some matters of detail reserved for future determination. Although matters of appearance, landscaping, layout, and scale are not formally submitted for determination, the submission is accompanied by illustrative details on plan 16-370-PL-201 to which I have had regard.

Main Issue

3. The main issue in this appeal is whether the site represents a suitable location for housing having regard to local and national policies, with particular regard to the effect of the proposed development on the character and appearance of the area.

Reasons

4. Located adjacent to the junction of Cleobury Mortimer Road and Dukes Farm Lane, the appeal site consists of a paddock bounded by mature hedgerows and trees. Adjacent to the appeal site, Shrub Hill Villa marks the settlement boundary for Clows Top. Beyond Shrub Hill Villa to the south-east, there is a ribbon of development which stretches towards the centre of Clows Top. There are fields opposite the site as the ribbon development at the other side of the road stops opposite Shrub Hill Villa. North west of the appeal site, the group of buildings at Yew Tree Farm are accessed from Dukes Farm Lane. A mission hall is located north of the appeal site.
5. Clows Top is defined as a category 2 village in policy SWDP 2. The village has a shop with a post office, a village hall and a garage. The appellant considers

that as a category 2 settlement the village is one of the more sustainable villages. However, the appeal site is acknowledged to be outside the settlement boundary.

6. The proposed development would comprise one detached house. Vehicular access to the proposed development would be via an existing gate off the Dukes Farm Lane close to the junction of the unclassified road with Cleobury Mortimer Road.
7. The South Worcestershire Development Plan 2016 (SWDP) sets out a hierarchy of development principles for appropriate locations for new housing which seeks to strictly control development in open countryside. Policy SWDP 1 sets out overarching sustainability principles, whilst policy SWDP 2 sets out the development strategy and settlement hierarchy, and confirms that windfall development proposals will be assessed in accordance with the settlement hierarchy.
8. However, Policy SWDP2 (C) also states that open countryside is defined as land beyond any development boundary. It further clarifies that development in the open countryside will be strictly controlled subject to a number of exceptions. It is agreed by the main parties that the proposed development does not fall within those exceptions.
9. Given its location next to existing properties and on the edge of the village, and having had regard to the legal judgment¹ provided by the appellant, the proposed development would not represent a new isolated home in the countryside which paragraph 79 of the National Planning Policy Framework (the Framework) seeks to avoid.
10. The appeal site marks the physical distinction between built up development within the settlement boundary of Clows Top and the wider countryside where the close set properties come to an end and the fields and hedgerows and farm buildings begin. The introduction of a dwelling would remove an important buffer between the ribbon development of Clows Top and the more rural properties such as Yew Tree Farm. Whilst the physical appearance of the proposed development, which would be addressed at reserved matters stage, may reduce the overall effect of the proposed development, there would still be a clear encroachment onto land that is open countryside. I therefore attach significant weight to the loss of the buffer.
11. The appeal site is defined as "Timberland Plateau Farmlands" by the Worcestershire County Landscape Character Assessment and deterioration of overall tree coverage is a major issue in these landscapes. The loss of hedgerows is therefore an important issue. The hedgerow along the roadside boundary is intended to be retained. However, the introduction of a dwelling at this location would remove the current protection under the Hedgerow Regulations which is of concern as the hedgerow does contribute, both physically and in positive visual terms, to the distinction between village and countryside.

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

12. The Framework states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a 5 year supply of deliverable sites. I have nothing before me that would lead me to find that the Council does not have a 5 year supply of housing land. However, notwithstanding this, it is government policy as set out in the Framework to boost significantly the supply of housing land, albeit that the proposed development would provide a single additional house.
13. The appellant has referred to paragraph 14 of the 2012 Framework applying, therefore only where adverse impacts significantly and demonstrably outweigh the benefits should an appeal be dismissed. Paragraph 11 of the Framework now deals with the tilted balance. However, whilst there is a presumption in favour of sustainable development, the titled balance only applies in limited circumstances. On the evidence before me, the development plan in this instance is up to date. The development is contrary to relevant development plan policy and so the tilted balance does not therefore apply.
14. The appellant has referred me to 8 appeal decisions where Inspectors have allowed appeals for development outside the settlement boundary in the district. However, having had regard to these decisions, I consider that they have different site-specific circumstances to the appeal before me. Therefore, I give them limited weight.
15. Outline planning permission has previously been granted for the development in the garden land at Shrub Hill Villa. However, the approved development is within the settlement boundary and was granted when the Council did not have a 5 year supply of housing and could not therefore attach full weight to its housing policies. As such, it does not alter my findings.
16. The appellant has indicated that ecological benefits may be provided through the scheme by way of condition but I have limited information about what form such benefits might take, and I can therefore only attribute that limited weight.
17. The proposal would provide a modest economic and social benefit from the provision of one new dwelling towards the supply of housing. Limited short term benefits would arise from construction work and subsequent local spending by the future household. The appellant refers to the nurturing of local services fulfilling a social role, and I have had regard to paragraph 83 of the revised Framework which among other things seeks to support the retention of accessible local services and community facilities, but through the provision of one additional household the effects would be very modest and I attribute that limited weight.
18. While I have given consideration to the limited information provided on the appellant's personal circumstances and those of their elderly relative, there is no indication of any immediate need. Moreover, I am mindful that personal interests can rarely be a planning consideration, and in this instance it is probable that the proposed development would remain long after the emerging personal circumstances cease to be material.
19. There would be significant adverse impacts in terms of the effect of the proposed development on the character and appearance of the area. The development would also be contrary to the development plan in terms of its location, and it has not been demonstrated that any relevant policies are

inconsistent or out of date. As such, the benefits of the proposed development would be clearly outweighed by the adverse impacts I have found.

20. In conclusion, the proposed development would not represent a suitable location for housing having regard to local and national policies, with particular regard to the effect of the proposed development on the character and appearance of the area. Therefore, it would not accord with policies SWDP1 and SWDP2 which amongst other things set out a settlement hierarchy to ensure that development takes place in sustainable locations.
21. Nor would it comply with Policy SWDP 21 which addresses design and, amongst other things, requires that the distinct identity and character of settlements should be safeguarded. Additionally, policy SWDP 25 deals with landscape character. This policy states, amongst other things, that the relevant Landscape Character Assessment should be taken into account, and that the development proposal should be appropriate to and integrate with the character of the landscape setting.
22. The Council has referred to paragraphs 17, 55, 58, 109 and 196 of the 2012 Framework in its decision notice. Matters referred to in those paragraphs include respectively the planning system being genuinely plan led, restricting isolated homes in the countryside, development responding to local character, contributing to or enhancing the natural environment and making planning decisions in accordance with development plan unless material considerations indicate otherwise. I have had regard to all of those matters including the revised Framework equivalent in reaching my decision.

Conclusion

23. For the reasons given, I dismiss the appeal.

Eileen Griffin

INSPECTOR