
Appeal Decision

Site visit made on 11 August 2020

by Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI

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

Decision date: 25 August 2020

Appeal Ref: APP/L3245/W/19/3241312

Cruckmoor Cottage, Prees Green, Whitchurch SY13 2BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Ruth Fawcett against the decision of Shropshire Council.
 - The application Ref 19/01927/VAR, dated 27 April 2019, was refused by notice dated 9 September 2019.
 - The application sought planning permission for the erection of an agricultural workers dwelling with integral garage and septic tank without complying with a condition attached to planning permission Ref NS/95/00558/FUL, dated 15 November 1995.
 - The condition in dispute is No 4 which states that: As the development hereby approved would be unacceptable unless justified by the needs of agriculture and because the agricultural unit requires two dwellings to be retained on the grounds of essential agricultural need, the occupation of the new dwelling and existing farm house shall be limited to persons solely or mainly employed (or last employed) in the locality in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or dependents of those persons residing with them including a widow or widower.
 - The reason given for the condition is as detailed in the condition itself.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council does not argue for the retention of the agricultural tie having accepted the appellant's case during the application process and I have no evidence to disagree with that view.

Main Issue

3. Accordingly, I consider the main issue in this appeal is whether the proposal is acceptable in relation to the prevailing requirements concerning the provision of affordable housing.

Reasons

4. Cruckmoor Cottage is a detached dwelling house located in the countryside.
5. Policy CS11 of the Shropshire Core Strategy requires all new open market housing developments to make appropriate contributions to the provision of affordable housing having regard to the current prevailing target rate, set using

the Shropshire Viability Index. For sites of 5 or more dwellings the provision of affordable housing is expected on site. For existing dwellings where there is no cap to floorspace (normally 100sqm), a financial contribution is calculated based on the total floor space. It has not been made clear whether the policy would apply to the existing farmhouse as well as the appeal property.

Notwithstanding, the Council's approach is to require a section 106 Agreement to be entered into before planning permission is granted which establishes the commitment to provide an affordable housing contribution by reference to the formula figure. The Council's adopted Type and Affordable Housing Supplementary Planning Document (SPD) forming part of the Shropshire Local Development Framework provides detailed guidance as to the Council's requirements. It makes clear that a standard section 106 legal agreement will be required and provides model agreements in connection with this. It is expected that applicants for planning permission should complete and submit an Affordable Housing Pro-forma so that the required calculations for financial contributions can be made by the Council's Affordable Housing Officer. The appellant has failed to provide a completed pro-forma.

6. The appellant maintains that a financial contribution is not necessary for all small-scale developments and that applying such contributions to single dwellings runs contrary to Government policy. However, it is clear that the development plan policy and relevant SPD requires such contribution where an open market house is created. A contribution to affordable housing provision in exchange of removing the agricultural tie would be in line with the Council's adopted policies. For this to take effect, a section 106 agreement must be in place before granting planning permission. There is no section 106 obligation in place, either by way of agreement entered into with the Council or alternatively by way of a unilateral undertaking, which would normally provide the necessary legal commitment to appropriate affordable housing provision that would be triggered by a planning permission.
7. Whilst paragraph 63 of the National Planning Policy Framework (the Framework) explains that an affordable housing contribution should not be sought where the number of open market dwellings is below the thresholds referred to in the Framework, the Council has explained that rural affordable housing is critical in rural Shropshire and that it has a designated Rural Area that supports a lower threshold. In the light of development plan policy supporting this designation, I attach full weight to the development plan policy and its associated SPD.
8. Accordingly, I conclude that the absence of a completed legal agreement that would secure an appropriate contribution towards affordable housing provision elsewhere in line with the Council's policies renders the proposal in conflict with Policy CS11 and the SPD and represents an overriding reason why planning permission should be withheld.

Other Matters

9. The appellant claims that the Council has not fully explained its policy requirements, which has resulted in much confusion. However, this is a matter between the parties and I am satisfied that the policy documentation provided in the appeal clearly explains these requirements.

Conclusion

10. For the reasons given, without a commitment to making an affordable housing contribution, the development plan policy should prevail. Thus, the appeal fails and the condition is retained.

Gareth W Thomas

INSPECTOR