



Appeal Decision

Site visit made on 11 August 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2020

Appeal Ref: APP/L3245/W/20/3251782

Hunger Hill Farm, Kettlemore Lane End to Common Farm, Sheriffhales TF11 8SA

- 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 Mr David Ruggles against the decision of Shropshire Council.
 - The application Ref 19/04986/FUL, dated 8 November 2019, was refused by notice dated 27 March 2020.
 - The development proposed was originally described as 'the erection of 3 single storey detached dwellings'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above is that given on the application form, though I have omitted the words 'part-retrospective' as this does not describe and act of development. There is dispute between the parties as to the description, which was amended by the Council during the course of the application to add reference to demolition of existing agricultural buildings, formation of access and parking, and change of use of an agricultural access and land to a domestic vehicular access and curtilage. Correspondence on file indicates that the appellant's agent agreed to the change in description, however, in view of the objections maintained by the appellant, I have proceeded on the basis of the original description.
3. I saw on site that partly built structures exist in positions similar to those proposed, but for the avoidance of doubt, I have determined the appeal on the basis of the submitted plans.

Background and Main Issues

4. The appeal site is located within the countryside outside of the village of Sheriffhales, and comprises a farmyard with a number of agricultural barns used for storage and, at the time of my visit, three partially built structures in the position of a former farm shop building and barn previously in situ on the site. A dwelling stands opposite the site, whilst to the north is a modern agricultural shed and a caravan/camping site which extends to the field on the opposite side of Kettlemore Lane.
5. I have had regard to the evidence before me relating to the recent planning history, which includes decisions by the Council that its prior approval was not required in respect of two applications to respectively convert the former shop

and barn to residential uses under permitted development, and subsequent works on site.

6. The appellant disputes that the previous buildings have been demolished, but accepts that neither building was structurally sound and works undertaken included replacement blockwork walls and supporting beams. This was apparent to me on site and most of the structures which I saw appeared to be new construction, with the structures which have replaced the former barn limited to just walls and lacking roofs, floors and windows. The former shop building appeared to have newly constructed floors, walls and roof structures, and both differ noticeably in appearance from photographs submitted by the Council from May 2018 which show the site before works commenced.
7. It is not my role in this appeal to judge the lawfulness or otherwise of works undertaken. However, the evidence before me, in particular the appellant's concession that the works required exceed the parameters of a conversion under the relevant classes of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO); the agreement of the appellant's agent to the inclusion of demolition of existing buildings in the description of development; and the extent of works I observed on site, mean I am not persuaded that the proposals would constitute conversion of existing buildings, but would amount to the construction of new dwellings on the site.
8. With this background, I consider the main issues are i) whether the proposal would represent a suitable location for housing, having regard to the strategic and accessibility requirements of the development plan for the area and ii) its effect on the character and appearance of the area.

Reasons

Location for housing

9. The site lies outside of any defined settlement in the development plan and within the countryside for planning purposes. Policy CS5 of the Shropshire Adopted Core Strategy (March 2011) (the CS) seeks to strictly control development in the countryside with the exception of specific types of development proposals on appropriate sites which maintain and enhance countryside vitality and character which will be permitted where they improve the sustainability of rural communities.
10. Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (December 2015) sets out that new market housing will be strictly controlled outside of Market Towns, Key Centres and Community Hubs and Community Clusters. The site is not located in any of these settlements, the dwellings are not promoted as rural exception sites and none of the types of development supported in the countryside under Policies CS5 and MD7a would be applicable to the proposal. Therefore, there would be conflict with the spatial strategy of the development plan in this regard.

The physical location of the site opposite an existing dwelling and the campsite means the proposal would not amount to 'isolated homes' in the countryside for the purposes of the National Planning Policy Framework (the Framework), and none of the exceptions at Paragraph 79 are therefore required to be met. The appellant nonetheless argues that Policies CS5 and MD7a are more restrictive than Paragraph 79, as they only support conversions of heritage

assets to market housing, and so are inconsistent with the Framework. However, they form part of the Council's overall approach to sustainable development which directs development to the hierarchy of rural settlements. As such, I find the policies are consistent with the approach of the Framework to locating housing where it will enhance or maintain the vitality of rural communities. As the development plan is the starting point for consideration of the proposal, the conflict I have identified weighs significantly against it.

11. The site is located around 0.6 miles east of Sheriffhales, which has few facilities, limited to a primary school, village hall and church which are more than 1 mile from the site. These would be reached along a narrow, unlit rural lane which is unlikely to encourage occupants to walk or cycle. Whilst the appellant advances the potential for cycle journeys to other settlements of between 10 and 25 minutes duration, such journeys are unlikely to be undertaken on a regular basis, or at night or during inclement weather, and residents are therefore likely to rely heavily on the private car to access settlements beyond Sheriffhales which provide more facilities, services and employment opportunities.
12. I acknowledge that the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and I have had regard to the appeal decision in Hart district referred to by the appellant. However, I do not have full details of this case, such as the number or type of services the Inspector found would be within walking distance, and therefore it is not clear that this is a comparable situation, which limits the weight I afford it. In any case, judgement in these respects will depend on the particular circumstances of the case and I have considered this appeal on its own merits.
13. The proposal would not encourage walking or cycling and I therefore find that the dwellings would not be located in an accessible location and would conflict with the development plan which indicates that the proposed dwellings should be directed to more sustainable locations. There would also be conflict with Paragraph 102 of the Framework which requires development proposals to take account of opportunities to promote walking, cycling and public transport.
14. Taking these considerations together, I find that the proposal would not represent a suitable location for housing, and would conflict with Policies CS5 of the CS and MD7a of the SAMDev. It would also conflict with the aims of the Framework to locate housing where it will enhance or maintain the vitality of rural communities.

Character and appearance

15. The proposed dwellings would largely reflect the scale and shape of the buildings which previously stood on site, with Plots 1 and 2 sitting within the envelope of the former barn, and Plot 3 within the footprint of the former shop. Plots 1 and 2 would resemble modern barns in shape having a broad footprint and low profile with a shallow pitched roof and Plot 3 a low, elongated cottage. It is indicated that the walls to all three would be finished in a combination of off-white render and cedar cladding, with timber windows and powder coated steel roof to Plots 1 and 2, and plain clay roof tiles to Plot 3.
16. The dwellings would match the scale of the previous buildings, and therefore would not have a greater impact in the landscape in terms of massing or

visibility. The form of the buildings would replicate the designs submitted under the prior approval applications, though these were necessarily influenced by the fact that the buildings were being converted rather than replaced. I recognise that the dwelling opposite is seen by the Council as an example of a vernacular design appropriate to the rural area. However, there are also a number of modern agricultural buildings within and adjacent to the wider appeal site, as well as areas of external storage and the camping and caravan site. Despite the somewhat industrial appearance of Plots 1 and 2, their general 'barn' form would not appear out of place within the varied rural development of the immediate surroundings, and would reflect typical agricultural buildings in longer views. Plot 3 would have a more traditional shape and location with a higher pitched roof and position close to the lane. It would appear relatively modest in scale compared to the surrounding development and whilst the external finishes would give it a more contemporary appearance, it would not appear discordant within its surroundings.

17. I recognise that the creation of dwellings would bring with it paved driveways and parking areas, landscaped gardens and other domestic paraphernalia within the grounds, as well as domestic use of an agricultural access. In this case, I saw that dwellings would be set at a lower ground level to the lane, and the gardens would be mainly to the rear of the dwellings. I also saw that boundary trees and hedging would filter views into the site which would prevent the site becoming 'urbanised'. As such, I find that the access, driveways and other external features would not add harmfully to the presence or impact of the dwellings in the immediate area.
18. I acknowledge that the Framework supports the re-use of brownfield land in principle, although only the former shop would meet the definition of previously developed land (PDL) in the Framework. Nonetheless, I recognise that the proposal would facilitate re-development of the wider site which I saw was overgrown and scattered with various waste and building materials.
19. Overall, I find that the proposed dwellings would preserve the character and appearance of the area, and so would not conflict with Policies CS6 and CS17 of the CS or Policies MD2 and MD12 of the SAMDev, which together seek appropriate design which maintains and enhances countryside and landscape character and the natural environment; nor with the Framework's recognition of the intrinsic character and beauty of the countryside.

Other Considerations

20. The appellant argues that the prior approval decisions of the Council are significant material considerations. However, the appellant acknowledges that works undertaken have exceeded the parameters of the relevant classes of the GPDO, and based on the present condition of the buildings, which are no longer the same structures that stood at the time of the prior approval applications, it seems that the appellant can no longer rely on permitted development rights as a fall-back position in this case. Moreover, prior approval consent relates to a narrow list of criteria and does not involve wider planning considerations relevant to a Section 78 appeal. Therefore, these decisions are not directly comparable with the proposals which apply to this appeal and they have little bearing on my findings.
21. Similarly, the appellant refers to the possibility of returning the buildings to their former uses, and then seeking to convert them to dwellings. Whether that

is a realistic prospect, either in planning terms or practically, is unclear from the evidence, though should it involve a further planning application, it would be similar to the present appeal, and therefore there is no certainty that this approach would be successful. Moreover, even if it were a feasible option, there is little firm evidence to indicate the appellant would pursue a time consuming, two-stage process given the site has remained in the same state for more than a year. Therefore, I afford little weight to these purported fall-back positions.

22. The proposals are promoted as highly energy efficient homes, including use of ground source heat pumps, photovoltaic panels, a heat recovering ventilation system and reduced water consumption. However, Policies CS6 and CS18 of the CS require new development to incorporate sustainable design and water management principles, as does the Framework. I accept that the proposals would enable a high level of energy efficiency to be achieved, which weighs in favour of the proposal, though the small scale of the development means the environmental benefits would attract limited weight in favour of the proposal.
23. I note the documents submitted relating to the appellant's pursuit of a complaint against the Council. Ultimately, this relates to matters between the parties before and during the application stage. Beyond the question of demolition and rebuilding, upon which I have already commented, the complaint is not central to the planning merits of the proposal and does not alter my findings on the main issues.

Planning Balance and Conclusion

24. For the reasons set out above, I find that the policies most important for determining the application, namely Policies CS5 and MD7a, are consistent with the Framework and should be afforded significant weight. Given this, and the Council's ability to demonstrate a five year supply of deliverable housing land, which is not disputed by the appellant, I find that the 'tilted balance' is not engaged in this case, and the proposal falls to be determined against the development plan, taking account of other material considerations.
25. I recognise that the proposal would add to the housing supply. However, the benefits of this would be limited in view the small scale of the proposal and the Council's housing supply position. Benefits arising from construction activity and economic activity by future occupants would be similarly limited in scale, as would the additional Council Tax and New Homes Bonus revenue it would deliver for the Council. There would be limited environmental benefits from the energy efficiency measures proposed, but this would be countered by reliance of future occupants on the private car.
26. The benefits of the proposal, taken together, would not amount to material considerations which would outweigh the conflict with the development plan, to which I afford significant weight, and would not justify a decision being made other than in accordance with the development plan, taken as a whole.
27. Therefore, for the reasons given, the appeal is dismissed.

K Savage

INSPECTOR