



Appeal Decision

Site visit made on 6 June 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2023

Appeal Ref: APP/L3245/W/22/3309757

Land to the south of Garside Close, Upper Hengoed, Oswestry

- 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 James McNally against the decision of Shropshire Council.
 - The application Ref 22/00865/OUT, dated 21 February 2022, was refused by notice dated 29 April 2022.
 - The development proposed is outline permission for residential development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the appeal form as this better reflects the appeal site address. The appeal has been determined on this basis.
3. The application was submitted in outline with all matters reserved for future consideration. Indicative plans were submitted relating to the possible floor plans and site layout of the proposed scheme. I have had regard to these in so far as relevant to this appeal and consider them as illustrative.
4. A draft Section 106 legal agreement has been submitted which includes a mechanism to contribute towards affordable housing. As this agreement has not been completed, I have to determine the appeal on the basis that it is not in place, therefore I have not taken this into consideration in my decision.
5. An amended site location plan was submitted with the appeal. This represents a minor alteration to the appeal site. In addition, the Council have had opportunity to comment on this amended plan. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to the submitted plan in determining this appeal.
6. Both the main parties refer to policies in the emerging local plan, currently in examination. I am not aware of the exact stage this plan has reached, the extent of unresolved objections or whether the policies concerned will be considered consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 48 of the Framework, I give the emerging plan limited weight.

Main Issue

7. The main issue is whether the proposal is in a suitable location for housing, having regard to the spatial strategy of the development plan.

Reasons

8. The appeal site comprises a vacant parcel of land which is located to the south of a modern residential development in Upper Hengoed. Upper Hengoed is a small settlement, which, along with Selattyn, Lower Hengoed, Middle Hengoed and Pant Glas, is defined as a Community Cluster in the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev). Upper Hengoed contains a garage and a public house and limited other services. A local bus service provides access to nearby settlements including Oswestry and Wrexham. The nearby settlements, including those which comprise this Community Cluster, contain limited services.
9. Policy CS1 of the Shropshire Local Development Framework Adopted Core Strategy (2011) (CS) outlines the strategic approach to development across the plan area. This establishes a hierarchical approach to residential development that is to be directed towards Shrewsbury (25% share), Market Towns and other Key Centres (40%) and rural areas (35%). Within rural areas the policy states that development and investment will be located predominantly in community hubs and community clusters and will contribute to social and economic vitality. CS Policy CS4 goes on to set out the approach for development in rural areas, promoting development that enables communities to become more sustainable. This includes focusing development within Community Hubs and Community Clusters.
10. The SAMDev complements the policies in the CS and includes a number of settlement policies which guide future development in order to help to deliver the vision and objectives of the CS. SAMDev Policy S14.2(x) seeks to control development within the Community Cluster which includes Upper Hengoed, stating that, reflecting the level of recent commitments, including a recent consent for 13 dwellings in Upper Hengoed. In policy terms, further housing development in Upper Hengoed will not be supported during the period to 2026.
11. The appellant states that the current local plan is out of date and argues that national policy set down in the Framework should be used to determine the proposal. However, the appellant has not substantiated how or why the current local plan is out of date, and I have not been drawn to any inconsistencies between the relevant development plan policies and the Framework. Therefore, I see no reason not to give full weight to the development plan.
12. The proposal relates to the development of this agricultural site for residential use. Indicative plans show how the site could be developed to accommodate 8 dwellings. Whilst Upper Hengoed does not have a settlement boundary as defined in the development plan, the proposed development would adjoin existing residential development to the north and would relate well to the existing settlement. Nonetheless, in policy terms the site lies in the open countryside where new residential development is restricted unless identified in a Community Led or Neighbourhood Plan as part of the Local Plan Review, however even if proposed in the review this would be for the plan period beyond 2026 and subject to a process which has not yet been completed.
13. The main parties agree that 13 dwellings in Upper Hengoed, as required by SAMDev policy S14.2(x), have now been constructed. Thus, whilst there is support in principle for new residential development in community clusters within the CS, there would be conflict with SAMDev policy S14.2(x) which

specifically restricts new residential development within this community cluster during the plan period to 2026. I attribute great weight to the conflict with the more recent Policy set down in the SAMDev.

14. In support of their proposal the appellant cites two appeal decisions¹ in which the Inspectors commented that housing requirements are set as minima and the proposals would support the Government's objective of significantly boosting the supply of homes. Furthermore, in the second of these decisions, the Inspector found that the proposal would support the desire for a rural rebalance through contributing towards social and economic vitality and provide benefits to the community.
15. The first of these appeal decisions related to a site which had been put forward as a site allocation in the emerging local plan. Furthermore, both appeals relate to sites which the Inspectors concluded were reasonably accessible to a range of facilities by means of travel other than private motor vehicles. Notwithstanding the appellant's comments that the proposal would include a mixture of households of all ages who would maintain the vitality of rural services including services in neighbouring villages, with the exception of the local bus service, service provision within Upper Hengoed and the other nearby settlements, including those which make up this community cluster, is limited, thereby providing limited opportunities for the support of these services from future occupiers of the development. Furthermore, the highway conditions in between the appeal site and the surrounding settlements, including the limited facilities for pedestrians and lack of street lighting, would likely make walking or cycling such journeys unattractive.
16. Consequently, whilst I acknowledge that vitality is not limited to economic benefits and includes the social role of sustainable development², future occupiers are unlikely to significantly contribute towards local social and economic vitality and I have not been presented with any particular evidence that the proposal would enable these communities to become more sustainable. Therefore, this appeal proposal differs from the cited appeal decisions in which the proximity to local services by means of travel other than private motor vehicles and the prospect of support for these services by future residents to the benefit of the social and economic vitality of these communities weighed in favour of the proposals.
17. Residential development here would meet the objectives of CS policies CS1 and CS4 and SAMDev Policy MD1 which seek to locate development within community clusters, as well as national planning objectives which seek to boost the supply of homes, nonetheless there would be a fundamental conflict with SAMDev policy S14.2(x) which specifically seeks to restrict new residential development within this community cluster.

Other Matters

18. I acknowledge that the construction of dwellings would make a small contribution towards the Council's housing supply and acknowledge the Government's objective is to significantly boost the supply of homes. There would also be short-term economic benefits associated with construction and

¹ APP/L3245/W/21/3267148 and APP/L3245/W/21/3288834

² Braintree District Council v (1) Secretary of State for Communities and Local Government (2) Greyread Limited (3) Granville Developments Limited [2017] EWHC 2743 (Admin)

Council tax revenues in the longer term. These factors weigh in favour of the scheme.

19. The appellant states that residents will have ample choice of education, employment, and recreational activities within close proximity. However, I have not been supplied with any details of such provision, and as set out in relation to the main issue, I note that service provision within the settlement of Upper Hengoes and the surrounding area is limited. Therefore, this does not weigh in favour of the proposal.
20. The appellant states that the proposal will be sensitively designed to respond to the local vernacular and the form of Upper Hengoes and will include a comprehensive landscaping scheme. The Framework requires good design in all new development, however, this appeal is in outline format where all detailed matters are reserved. Thus, this matter weighs neither for, nor against the appeal proposal.
21. The appellant's aspiration to develop an energy efficient proposal utilising renewable energy sources and sustainable building methods is noted as is the suggestion that the proposal would make provision for on-site parking with adequate visibility splays for access. However, this proposal is in outline format, and details of these measures are not before me at this outline stage. Furthermore, I note that the provision of adequate site access and on-site car parking would be required in any case.
22. The site is located within flood zone 1 and the proposal would make adequate provision for surface water and foul drainage. Additionally, I note that the Preliminary Ecological Appraisal which accompanies the proposal found that there would be no harm to protected species. Nonetheless, these matters do not outweigh the conflict I have identified in relation to the first main issue.
23. I note that the Council did not object to the proposal on grounds of the effect on the living conditions of the occupants of neighbouring properties, as such matters are reserved and may indeed change, they do not weigh in favour of the development when it is the principle of development on the site which is under consideration.
24. Paragraph 80 of the Framework states that Planning policies and decisions should avoid the development of isolated homes in the open countryside. Whilst there is no indication that the appeal site is isolated, nonetheless, this does not override the conflict with the development plan.

Conclusion

25. It is clear that the appellant does not dispute that the Council is able to provide a supply of housing in excess of five years but they also emphasise those should be regarded as a minimum level. They also argue that the site should be regarded as a windfall site to help meet the governments' objective to increase housing supply however the Framework reference at paragraph 69 c) gives great weight to sites within settlements which is not the case here.
26. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires planning applications to be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. In this case there are clear policy reasons to limit new residential development in this location such that the

presumption in favour of development does not apply. There are no overriding reasons which would warrant a decision other than in accordance with the development plan.

27. So, for the reasons given above, having considered the development plan as a whole along with all other relevant material considerations, the appeal is dismissed.

Nichola Robinson

INSPECTOR