



Appeal Decision

Site visit made on 4 October 2023

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2023

Appeal Ref: APP/L3245/W/23/3320163

**Land North of Crabmill Meadow, Tilstock, Whitchurch, Shropshire
SY13 3PL**

- 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 R.G.M Construction against the decision of Shropshire Council.
 - The application Ref 22/03682/FUL, dated 10 August 2022, was refused by notice dated 12 October 2022.
 - The development proposed is erection of 3no dwellings/bungalows comprising 2 No semi-detached bungalows and 1 no detached bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The appellant submitted revised plans with the appeal, which include a different 'red line' site boundary and alterations to the design and layout of the dwellings. The changes proposed are substantial and materially different to what the Council originally considered. The appeal process should not be used to evolve a scheme to overcome the Council's reason for refusal. While the Council commented on these changes, as far as I am aware, they have not been subject to any form of consultation. Accepting the revised plans may unacceptably prejudice the interests of interested parties. For the avoidance of doubt, I have therefore determined the appeal based on the original plans submitted with the application only.
4. The appellant submitted additional evidence in relation to the effect of the development on biodiversity. Consequently, the Council has confirmed it no longer wishes to defend this reason for refusal. I have had regard to this in my decision.

Main Issues

5. The main issues are:
 - The effect of the development on the character and appearance of the area, including the effect on trees;

- Whether the site is an appropriate location for housing having regard to local policy on housing in the countryside; and
- The effect of the development on the efficient operation of the highway network.

Reasons

Character and appearance

6. The appeal relates to a roughly rectangular area, densely covered by trees and hedgerow. It lies immediately to the north of the edge of the built-up area of Tilstock. Open fields lie to the north of the site.
7. There may be dwellings further north of the site in other parts of the village, but the verdant nature of the site represents a distinct change in character from the main built form. In this way, it does not represent an area of transition between the settlement and countryside. Indeed, the site forms a well-defined 'edge' to the settlement and clearly forms part of, and makes a positive contribution to, the rural character of the village's setting.
8. The dwellings would be accessed by the continuation of the road serving recently built dwellings to the south. This road would continue behind the existing dwellings known as Beachan and Buckthorn. The bungalows would face the rear boundaries of these dwellings across the access road. Given the relationship between the proposed and existing dwellings, the development would not represent infill, a logical extension, or a rounding off of the village. Rather, as they would be positioned behind existing dwellings, they would be viewed as a somewhat disjointed adjunct to the village, relating poorly to the existing pattern of development.
9. They would also present as an obvious protrusion into the countryside beyond the clear and well established 'edge' created by the existing dwellings. The need to remove several trees, significantly altering the existing verdant character of the site, would exacerbate this impact.
10. The submitted Arboricultural Report (AR) is based on the revised plans and layout submitted with the appeal. Accordingly, details about trees to be removed or retained may not accurately reflect what was originally proposed or what I am considering. Nevertheless, the report provides some assistance in understanding the potential impacts of development. It concludes that there are several 'moderate quality' category B trees (one table indicates 4 such trees, whereas another indicates 5). The majority of trees in the site are classed as 'category C' of low quality and one category U. Two category B trees would need to be removed.
11. The Council raised concerns about the effect of retained trees on the living conditions of future occupants of the dwellings, arguing that this may lead to overshadowing. This, in turn, may put the retained trees at a heightened risk of felling in the long term. I deal with this here, rather than in the context of effect on living conditions, as it is the potential effect on the character of the area from tree removal which is the primary concern.
12. Notwithstanding any potential issues relating to root protection areas, or differences in plans, given the proximity of retained trees to the proposed dwellings, it is likely that they would give rise to issues relating to

overshadowing and other issues relating to falling leaves and branches and effects on usable garden space. This is particularly the case for two of the category B sycamore trees. Rather than creating a pleasant experience for occupiers, there is a reasonable likelihood that the trees could be seen as a nuisance and would be at risk from being removed in the medium to long term.

13. As a result, the AR likely underestimates the likely harm to visual amenity that would be caused. The trees create a well-defined and verdant edge to the settlement. While the hedgerow may be capable of retention, the thinning out of the trees would alter the character of the site to a substantial degree. This would erode the existing cumulative value of the site to local character. Along with all associated domestic paraphernalia and the access road, this would have a harmful urbanising effect on the site that would significantly diminish the contrast between the settlement and the countryside, much to the detriment of the rural setting of the village.
14. The single storey characteristics of the dwellings and the retention of hedgerows would provide a degree of screening, particularly along parts of the B5476. In this regard, the dwellings would not be particularly prominent from medium and long-distance views. However, the removal and thinning out of the tree line could reveal more of the built form behind the site, thus potentially opening views of housing beyond. This again would harm the site's existing role in terms of the character of the village. The proposal for replacement trees would not provide adequate replacement of the existing screening or mitigate the harm caused by the cumulative loss of trees across the site.
15. I therefore find that the development would have an unacceptably harmful impact on the character and appearance of the area. As such, it conflicts with policies CS6 of the Shropshire Core Strategy (CS) (2011) and policies MD2 and MD12 of the Shropshire Site Allocations and Management of Development Plan (SAM) (2015). Amongst other things, these require development to contribute to and respect local distinctiveness and respond appropriately to the form and layout of existing development.

Suitable location

16. The site is located outside the defined development boundary for Tilstock and thus is considered to be in the open countryside in policy terms. CS Policy CS4 states that in rural areas development will be focussed on 'Community Clusters', which includes the defined settlement at Tilstock, unless it meets the requirements of Policy CS5. Policy CS5 allows for development outside defined settlements where it meets one of several exceptions (albeit these are not exhaustive). This includes reference to 'other affordable housing/accommodation to meet a local need.' Whether or not there is a local need or demand for bungalows, the exception is for affordable dwellings. Three market dwellings would not fall into this exception. As set out above, the development would also not maintain or enhance countryside character, which is also a requirement of this policy.
17. Policy MD7a of the SAM also 'strictly controls' new market housing outside Community Clusters. This allows for suitably designed and located 'exception' sites. An 'exception' site is again required to deliver affordable housing and thus market dwellings would not meet this requirement. This policy therefore provides no support for the proposal.

18. Policy MD3 of the SAM also allows for development outside allocations, subject to other policies, including CS5 and MD7a. It also requires development to meet the relevant design policies of the plan. Given my conclusions above, the development would not comply with this policy.
19. My attention has been drawn to the emerging Shropshire Local Plan which is currently under examination. There is no indication that the Inspector has informed the Council as to whether the policies of this plan are 'sound' or whether modifications will be necessary. I also have no indication of the level of unresolved objections that exist to the policies referenced. Accordingly, I have given little weight to this plan.
20. Nevertheless, in considering windfall proposals, emerging Policy SP9 requires development to be clearly within and well related to the built form of the settlement and have permanent and substantial buildings on at least two sides. There would be dwellings to the southern boundary of the site. The garden of 'New House' runs to the side of the site. However, the dwellings themselves would be located further north of the rear building line of this dwelling and would have no visual or physical relationship with it. On this basis, the development would not constitute 'infill' in any event and thus would remain contrary to the emerging policy.
21. The development would not be considered an 'isolated' development in terms of paragraph 80 of the National Planning Policy Framework (the Framework). Nonetheless, while the Framework seeks to resist such development in all but a few circumstances, it does not follow that all development which is not isolated is acceptable in principle, particularly considering other relevant development plan policies.
22. Paragraph 79 of the Framework also states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. The development is immediately adjacent to a defined 'Community Cluster.' Development has been considered acceptable in principle in the development plan, some of which is very close to the site. Tilstock has therefore obviously considered a sustainable location for development in principle. Nevertheless, the plan is clear about the scale of development envisaged for Tilstock and where this should take place within it. While housing requirements may be a minimum, they appear to have been met and there is no apparent need for additional windfall development outside the defined boundary. In this regard, I am mindful that Policy MD3 specifically refers to the settlement housing guideline as a significant policy consideration, particularly where proposals would exceed the guideline figure.
23. I shall return to the issue of the benefits of development below. However, the provisions of paragraph 79 cannot alter the conclusion that the proposal is inconsistent with the development plan with regard to housing development in the countryside. In conclusion, the development conflicts with CS policies CS1, CS4 and CS5 and SAM policies MD1, MD3, MD7a and S18.2 which seek, amongst other things, to direct development to defined Community Clusters. As such, this is not an appropriate location for housing development having regard to local policies.

Highways

24. The Council's concern in relation to highways was a lack of information to determine whether the proposal would cause unacceptable safety risks. This related primarily to the connection to the existing road network and parking provision. The appellant sought to address some of this through the submission of revised plans. However, as I have already indicated, these illustrate substantial material changes to the development and thus I have not had regard to them in my decision.
25. The comments from the Highways Authority (HA) state a requirement for two parking spaces per dwelling. However, no parking standards have been drawn to my attention. In any event, while not detailed, the original plans include a garage for each dwelling and there would appear to be driveways that would be sufficient to accommodate an additional vehicle. The access road would not be a through route and there would be no passing traffic. Any movements are also likely to be low speed. There appears to be no obvious reason why the parking provision would lead to unacceptable safety issues or impacts on the operation of the road network.
26. I note the HA comments about the detail of the plans and what they show in terms of connection to the wider network. The original plans do not include the access road within the 'red line' of the application, but the land needed does appear to be in the ownership of the appellant. There seems no reason in principle why connection to the existing estate road could not be achieved. Importantly, the original plans do not show any potential access onto the B5476.
27. The existing access road is relatively narrow with no markings. It would be reasonable to assume that the proposal would be served by similar. This road already serves housing, and it is unlikely that the traffic created by an additional three dwellings would have an unacceptable impact on either safety or the operation of the road network in the immediate vicinity. The nature of the road and the number of dwellings served means that there would not be a substantial number of vehicle movements using this access road, and they would be relatively slow moving. I saw nothing to suggest that the development would result in an unsafe road environment.
28. Tilstock Lane is straight in both directions at its junction with Crabmill Meadow. My site visit can only represent a snapshot of normal conditions. Cars were parked on the road to either side of the junction, which impeded visibility to an extent. Nevertheless, this is an existing junction to both the estate and Village Hall and there is no evidence that the junction has been the cause of recorded accidents. Although the development would add to the use of the junction, it is unlikely that it would have any material effect on its operation. Moreover, the traffic generated by the development would not be sufficient to cause severe impact on the wider road network.
29. Based on the evidence before me, I see no reason to conclude that the development would result in unacceptable harm in relation to highway safety or the efficient operation of the transport network. Therefore, there would be no conflict with CS policy CS6 which seeks, amongst other things, for development to be safe and accessible to all.

30. For the avoidance of doubt, this conclusion is based on the original plans. While I have noted the Council's concerns relating to the revised plans and, in particular, the implications for refuse collection, these have not factored into my decision.

Other Matters

31. The development would provide three additional bungalows that would both add to the housing land supply and provide specialised housing. While these would not meet the policy exceptions for housing in the countryside, there would still be associated economic and social benefits.
32. As discussed above, I am mindful that the Council has identified development in Tilstock as acceptable in principle and has allocated land for development within the defined development boundary. Notwithstanding the conflict with policy, there would not therefore be significant harm in terms of accessibility and sustainable travel. The development would also contribute to the vitality of Tilstock.
33. However, given the scale of development, any benefits associated with these factors would be limited. Furthermore, the evidence suggests that the Council can demonstrate more than a five-year housing land supply and the housing requirement identified for Tilstock has been met. There is no evidence of a quantitative supply issue either locally or in the wider district. The benefits associated with the development are therefore not sufficient to outweigh the clear conflict with the development plan.
34. I have not identified any harm in relation to any other aspect of the development, including the effect on living conditions of neighbours, biodiversity, flooding and drainage or pollution. It is also not best or most versatile agricultural land. However, a lack of harm in these respects is neutral and weighs neither for nor against the development. The representations supporting the proposal are noted, but do not alter my overall conclusion.
35. The development would conflict with the development plan when read as a whole. There are no material considerations that would lead me to a decision other than in accordance with the plan.

Conclusion

36. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR