



Appeal Decision

Site visit made on 7 November 2023

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal Ref: APP/L3245/W/22/3311368

Benthall Grange, Benthall Lane, Benthall, Broseley, Shropshire TF12 5RR

- 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 Kelvin Bailey against the decision of Shropshire Council.
 - The application Ref 21/00040/OUT, dated 4 January 2021, was refused by notice dated 7 November 2022.
 - The development proposed is the erection of 3 four bedroom houses following demolition of existing workshops.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with all matters reserved for future consideration. Drawings were submitted with the application indicating the proposed dwellings' siting, design and layout. However, these are labelled as indicative only and I have considered them as such.
3. For clarity, I have taken the description from the application form as it adequately and simply describes the proposed development.
4. Part of the appeal site is the subject of a planning permission for three dwellings¹ that has been confirmed to be extant but has not been developed beyond lawful implementation.

Main Issue

5. The main issue is whether or not the proposal accords with the council's housing strategy, with particular regard to its location.

Reasons

6. The appeal site lies outside any defined development boundary, to the edge of the settlement of Benthall, and is located on an area of land which is used as a builder's yard and includes workshop units. The business is owned and operated by the appellant who resides at Benthall Grange. Benthall Grange is located immediately to the west of the site, and shares an access from the main road. The proposed scheme would incorporate a portion of the garden of Benthall Grange, which would allow for an alteration of the layout of the three dwellings from the extant planning permission. Both the appeal site and Benthall Grange are currently in the ownership of the appellant, and one of the proposed new dwellings would be for the use of the appellant and his wife.

¹ Ref 14/02614/FUL (12 October 2015)

7. Benthall is located within the Broseley Place Plan area. Place Plans were developed to include a main centre (often a market town) and its surrounding smaller towns, villages and rural hinterland. These areas are functioning geographical areas, with strong linkages to and from the main town and the wider area. The Shropshire Council Site Allocations and Management of Development Plan (SAMDev) provides brief settlement policies for each Place Plan area. Although Benthall is within the Broseley Place Plan area, it is located outside the defined development boundary for Broseley.
8. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026. This is supported by Policy MD1 of the SAMDev which highlights that sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres and the Community Hubs and Community Cluster Settlements.
9. SAMDev Policy S4 relates to Broseley Town. The policy states that over the plan period 2006-2026 around 200 dwellings are planned for Broseley. As mentioned earlier, whilst Benthall is within the Broseley Plan Place area, the appeal site is outside the defined development boundary for Broseley. Policy MD3 of the SAMDev indicates that additional sites may be allowed outside the development boundary, but only where the settlement housing guideline is unlikely to be met. Shropshire's Five Year Housing Land Supply Statement (2023)² indicates that as of March 2022 there have been 231 residential completions in Broseley, and a further 92 units have permission or prior approval, with a further 20 dwellings allocated. As such, the 200 dwelling figure for Broseley has already been met and exceeded, and the proposal would conflict with Policy MD3.
10. Policy CS4 of the CS establishes the framework for identifying Community Hubs and Community Clusters. SAMDev Policy S4:2 indicates that there are no Community Hub or Cluster Settlements in the Broseley area. As such, the settlement of Benthall is considered to be in open countryside for development plan purposes. Policy CS5 of the CS allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development types that this relates to including dwellings for essential workers, affordable housing to meet local need, and the conversion of rural buildings. The proposal would not fall into any of the identified examples.
11. Although Policy CS5 of the CS does not explicitly restrict new market housing in the countryside, Policy MD7a of the SAMDev is clear that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. As the proposal is for open market residential development, it would fail to accord with Policies CS5 and MD7a.
12. The appeal site is located outside any defined development boundary, in the open countryside where housing development is strictly controlled. As such, the proposed development would not comply with the council's housing strategy, as embodied by Policies CS1, CS4 and CS5 of the CS and SAMDev Policies MD1, MD3, MD7a and S4. It also would be in conflict with the National Planning

² Shropshire Council Five Year Housing Land Supply Statement – Data to 31 March 2022 (March 2023)

Policy Framework (the Framework) which seeks to ensure that the planning system is genuinely plan-led.

Other Matters

13. The extant planning permission for the appeal site was considered acceptable despite being contrary to the council's housing strategy, due to two main reasons. Firstly, because the proposal would have removed the conflict between the employment use and neighbouring properties and secondly because of a financial contribution that had been secured towards affordable housing.
14. The proposal for three dwellings would be a more compatible use with surrounding properties than that which currently exists, and would remove any potential conflict between the builders yard and workshops with residential neighbours. This weighs in favour of the application, and I acknowledge the support that the appellant has received from neighbouring residents.
15. However, the policy context at the time meant that a financial contribution for affordable housing was required for development of this scale. This is no longer the case. When the original application was determined, the affordable housing contribution was given weight in the planning balance. As there is now no such requirement, no planning obligation has been submitted with this application to secure monies. As such, unlike with the previous scheme, I am unable to attach any positive weight to the benefits in terms of affordable housing provision.
16. The appellant has stated that the financial contributions required make the existing planning approval unviable. However, I have not been provided with any viability evidence to determine whether this is an accurate assessment. I therefore place very limited weight on this. The appellant has also indicated that a future application for reserved matters could be submitted with fewer units, or self-build units, which may make any financial contributions more affordable. However, the subject of this appeal is for three market units and I must determine the appeal with this quantum of development in mind.

Planning Balance

17. The latest housing land supply position as set out in the Council's five year land supply statement is that it can demonstrate at least a five year supply of housing land. This is not contested by the appellant and I see no reason to disagree. As such, the housing policies of the adopted plan must be afforded full weight.
18. As I am unable to attach any positive weight to affordable housing conditions, which weighed heavily in favour of the previous permission, I find that on this occasion the benefits of allowing the proposed development, including removing the conflict between employment and residential uses, would not outweigh the conflict that would be caused to the Council's housing strategy.
19. Additionally, although the proposed development would be on a larger site than the extant permission, which would allow for an improved layout, and larger plots and gardens, I do not consider that this outweighs the conflict to the plan led housing strategy.

Conclusion

20. The proposal would not accord with the council's housing strategy and it would conflict with the development plan when taken as a whole. There are no material considerations which would indicate a decision other than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

L C Hughes

INSPECTOR