



Appeal Decision

Site visit made on 5 March 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2024

Appeal Ref: APP/L3245/W/23/3324882

Land off Hinton Lane, Pontesbury, Shrewsbury SY5 0PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Maelor Homes (Hinton) Limited against the decision of Shropshire Council.
 - The application Ref is 23/01532/OUT.
 - The development proposed is an outline application for the erection of 2 no. detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for Outline application for the erection of 2 no. detached dwellings. at Land off Hinton Lane, Shrewsbury, SY5 0PU in accordance with the terms of the application, Ref 23/01532/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposal before me has been made in outline with only the matter of access being considered at this stage. All other matters, namely appearance, landscaping, layout and scale, have been reserved for a subsequent application. I understand from the appellant's case that the submitted drawings, in these respects are for illustrative purposes only, I have considered them as such.

Main Issue

3. The main issue is whether the appeal site is a suitable location for new residential development.

Reasons

4. Pontesbury is defined as a Key Centre by the development plan where residential development, including windfall sites, is supported within the settlement boundaries. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011, the ACS) sets out a list of development, including some forms of residential development, that is supported outside of settlement boundaries. This list is not exhaustive and so I find that other development, including new dwellings, can also be supported. Policy S12 of the Shropshire Council Site Allocations and Management of Development Plan (December 2015, the SAMD) sets out that windfall and infill sites can also be supported. Overall, the plan makes reference to sustainability, vitality and character as being important considerations for development. In particular, ACS Policy CS5 requires developments to maintain and enhance the

countryside vitality and character and to improve the sustainability of the rural community.

5. The appeal site comprises a paddock between an existing equestrian stable and a pair of dwellings at the edge of Pontesbury. The proposed site access would be from the shared access serving the two existing dwellings and leads to Hinton Lane. Beyond the stable block the area is characterised by open fields whilst to the opposite side of Hinton Lane, and to the rear of the existing dwellings, the area is built-up and primarily residential.
6. I recognise, from the submissions before me that the appeal site is outside of the defined settlement boundary for Pontesbury. However, while settlement boundaries are a starting point, I must make a judgement, as to whether the appeal site is within the settlement, against the situation on the ground.
7. In this instance, as noted above, the site is at the edge of the built-up area of Pontesbury and is surrounded by a degree of development. However, the site is a paddock, and the stable block is small and associated with the wider rural area. Traveling away from Pontesbury along Hinton Lane the sense of being within the settlement quickly stops and development is only seen behind the mature vegetation to either side of Hinton Lane. The two existing properties near the appeal site, by way of their location set back from the road and the intervening greenery, do not contribute to the extension of the settlement into the appeal site.
8. Although the site is visually outside of, and somewhat detached from, the settlement it is physically very close. It is a very short distance from the end of the shared driveway to where Pontesbury visually begins and from there a supermarket, medical centre and other services can easily be accessed by foot or bike. I note that there are a number of properties within the new development on the opposite side of Hinton Lane that share a similar distance from the services and facilities of Pontesbury. I do not find future occupiers would be reliant on private motor vehicles to meet their daily needs.
9. In all I find that the site is outside of, but immediately adjoining, the edge of Pontesbury for the purposes of this appeal and my assessment against the Council's spatial strategy. Moreover, given its loose relationship to the surrounding residential development I do not find that the site could be considered as infill.
10. I note that Pontesbury is currently 150 houses over the guideline set out in the development plan and shared with Minsterley of 260 new houses. I am mindful that this could lead to adverse impacts on the services and facilities provided within the settlement. However, no evidence has been supplied to demonstrate that the services and facilities in Pontesbury are not coping with the current population levels or could not accommodate an increase. This guideline number is also not a cap. Moreover, I am mindful that the proposal would only result in a modest increase in dwellings compared to the guideline and the existing over provision. I therefore find that there would be no unacceptable impact on the settlement from the proposed two additional dwellings.
11. Whilst outside of the settlement, the closeness of the site to it means the proposal would not result in a form of development that conflicts with the spatial strategy's aim of directing development to Key Centres such as Pontesbury. Moreover, given the lack of demonstrable harm to services and

facilities within the settlement, I find instead that the provision of two additional family homes would provide modest social and economic benefits. These would largely stem from the additional occupiers that would contribute to the vitality of Pontesbury.

12. Although I have been mindful of the allocations of the SHLAA as submitted by the appellant, I have been provided with only very limited information as to the status of the document and the context of the allocation. Therefore, whilst I have been mindful of it, it has not been determinative.
13. As the proposal is only at outline stage, with all matters other than access being reserved, it is not possible to consider the design of the resultant site and two dwellings. However, from the information before me and my observations on site I find that it would be possible for a design to be found that would protect the character of the site's countryside setting. In considering this I have been mindful of the existing dwellings adjoining the site. These are retiring features as a result of their siting, design and landscaping.
14. The proposal by way of its location and the provision of two new dwellings would maintain and enhance the vitality, and sustainability, of Pontesbury. It would therefore comply with the spatial strategy and hierarchy for residential development set out in ACS Policies CS4 and CS5 and SAMD Policies S12, MD3 and MD7a. The proposal would also comply with the aims of section 5 of the Framework with regards to directing housing to areas where it maintains or enhances the vitality of rural communities and supports local services.

Other Matters

15. I understand that there is some disagreement as to whether the shared access track used by the existing two dwellings is available for use by the appellant. Any covenants, legal agreements or disputes over ownership with regard to this are outside of the remit of this appeal and it would need to be dealt with by the appellant separately.
16. My attention has been drawn to several appeal decisions¹ and I note the comparisons made. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision-makers or Inspectors at the time. However, in my consideration of this appeal I have been mindful of the previous Inspectors' interpretations of the relevant policies.

Conditions

17. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
18. For certainty, I have set out the reserved matters as well as the timescale for their submission and the commencement of works. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.

¹ Appeal Reference: APP/L3245/W/21/3267148, APP/L3245/W/21/3288834, APP/L3245/W/22/3310764

19. In the interests of highway safety on and around a site, a condition is required to provide additional details of how access would be provided for refuse collection, deliveries and emergency vehicles. Although access is not a reserved matter, the requested details would be dependant on the site layout, which is a reserved matter. A condition is also necessary for a coal mine gas assessment to be made in the interests of the health, safety and wellbeing of future occupiers. This must be made prior to the commencement of works as it may inform the way in which the development is carried out.
20. Given its rural location and the results of the ecological survey it is necessary for the purposes of protecting biodiversity, character and appearance that a landscaping plan be submitted. This would need to be submitted prior to the commencement of works so that it can inform the layout of the development and the retention of important features. Conditions requiring bat and bird boxes, and controls on external lighting are also necessary to ensure any harm to biodiversity is at least mitigated.
21. Access is a matter for consideration at this stage of the planning process. Issues revolving around the suitability of the access road, including the presence of gates, the condition, width and length of the track and the presence of any passing bays would therefore have been considered at this stage. A condition requiring further details to be submitted on these issues would not, therefore, be reasonable.
22. The layout of the drainage may not reflect the layout of the houses ultimately approved at the reserved matters stage. As such, it would not be appropriate to condition the surface and foul water drainage systems to the plan submitted under drawing no BC-GA-701.

Conclusion

23. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 76815/23/01 rev A, 76815/23/02 rev A and Ecological Impact Assessment of Land.
- 5) Additional details of procedure for refuse collection, deliveries and emergency vehicle access should be provided on submission of a reserved matters application.
- 6) No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
 - a. Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
 - b. Written specifications for establishment of planting and habitat creation;
 - c. Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
 - d. Implementation timetables. Native species used are to be of local provenance (Shropshire or surrounding counties). The plan shall be carried out as approved.
- 7) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a mine gas risk assessment has been undertaken to assess the potential for mine gases to exist on the site. The mine gas risk assessment shall be undertaken by a competent person as defined in the National Planning Policy Framework and conducted in accordance with CL:AIRE - Good Practice for Risk Assessment for Coal Mine Gas Emissions; October 2021 and having regard to current Environment Agency guidance Land Contamination: Risk Management (LCRM; 2020). The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.
 - a. In the event of the mine gas risk assessment finding the site to be affected by mine gases a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must have regard to current guidance and standards and ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - b. The works detailed as being necessary to make safe the mine gases shall be carried out in accordance with the approved Remediation Strategy.
 - c. In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the Environment Agency guidance Land Contamination: Risk Management (LCRM; 2020), which is subject to the approval in writing by the Local Planning Authority.
 - d. Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in

writing by the Local Planning Authority that demonstrates the risks from mine gases and any contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land. Verification must be in accordance with current guidance and standards.

- 8) Prior to first occupation or use of the buildings hereby permitted, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.
- 9) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.