

Appeal Decision

Site visit made on 4 July 2016

by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 August 2016

Appeal Ref: APP/L3245/W/16/3146988

Land North of Stony Yard (Phase 1), Baschurch, Shropshire SY4 2BB

- 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 W L R Gwilt against the decision of Shropshire Council.
 - The application Ref 15/05127/OUT, dated 26 November 2015, was refused by notice dated 9 March 2016.
 - The development proposed is described as an outline application (access & scale for approval) for an affordable residential development of up to 20 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline, with some matters reserved for subsequent approval. Access and scale are indicated as matters for approval at this time; details of layout, appearance and landscaping are reserved for later consideration.
3. Although an indicative layout is presented, the appellant makes it clear that approval of layout is not being sought at this time and I have dealt with the appeal on this basis.
4. The development proposal in part is described as affordable residential development. However, there is no legal agreement in place between the parties that would secure the provision of affordable housing. I deal with this matter later in the decision.

Main Issues

5. The main issues of the appeal are the acceptability of the proposal in principle, having regard to the current development plan context and the presumption in the National Planning Policy Framework concerning sustainable development, and; the adequacy of living conditions for future occupiers in respect of the provision of open space.

Reasons

Development plan and sustainability

6. The proposal to erect up to 20 dwellings relates to an area of some 0.63ha on the northern edge of the settlement of Baschurch, which has a population of
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around 2,500. The land comprises part of an existing large agricultural field that has recently been used as a builder's compound associated with a new housing development that has recently been completed for a local housing association close to the junction of the B4397 and B5067. This development retained an access spur into the appeal site and from where access is now proposed.

7. I am required to have regard to the development plan in considering this appeal and to make my determination in accordance therewith unless material planning considerations indicate otherwise. In this regard my attention is drawn to policies of the Shropshire Core Strategy and the recently adopted Site Allocations and Management of Development Plan (SAMDev).
8. Core Strategy policies, including Policy CS4 seek to locate new housing development within and adjoining market towns, key centres and certain other settlements as identified in the SAMDev. Baschurch is identified as a Community Hub in the SAMDev with Policy S16.2(i) stating that new housing will be delivered through the development of allocated housing sites identified on the Proposals Map together with infilling of groups of houses and conversions which may be acceptable on suitable sites within the development boundary. The Core Strategy, through Policy CS5, strictly controls new development in the countryside. The appeal site adjoins the recently completed Stony Yard development, which itself was situated adjacent to the development boundary for Baschurch. The appeal site does not adjoin the settlement boundary and it is to be treated as falling within the open countryside.
9. SAMDev Policy S16.2(i) identifies a housing guideline of approximately 150-200 additional dwellings for Baschurch. The Council acknowledges that this is a guide figure and should not be treated as an upper limit; however, it also points out that the currently identified housing guideline for Baschurch is well on the way to being met by recent developments and with permissions amounting to over 200 houses.
10. Relevant policies for the supply of housing according to paragraph 49 of the National Planning Policy Framework (the Framework) should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The Council argues that it can demonstrate a 5.53 years' supply that includes a 20% buffer and thus relevant policies for the supply of housing in its Core Strategy can be given significant weight in terms of paragraph 49 of the Framework. However, the appellant believes that the 5.53 years' supply is "marginal" and points to recent appeal cases¹ where Inspectors have concluded that the margin over the stated five year land supply position is both "small and debatable". Despite the appellant's concerns in relation to marginality, no evidence is submitted that disputes the Council's figures. Consequently, there is no evidence before me that would undermine the veracity of SAMDev Policy S16.2(i) in terms of paragraph 49 of the Framework.
11. That said, the Framework at paragraph 47 places an obligation on local planning authorities to significantly boost the supply of houses in their area and so there remains the need to boost housing provision in Shropshire.

¹ APP/L3245/W/15/3001117; APP/L3245/W/15/3006489; APP/L3245/W/15/3134152 and APP/L3245/W/15/3003171

Furthermore, paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development.

12. The policies of the Framework taken as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: environmental, economic and social; according to the Framework, the proposal must jointly and simultaneously achieve the three strands. Paragraph 55 of the Framework provides specific guidance in relation to the sustainable development of new housing in rural areas. It advises that new housing in such areas should be located where it can maintain or enhance the vitality of rural communities.
13. It is acknowledged that up to 20 new homes in this location would result in moderate economic benefit through the economic activity associated with the development's construction and subsequent occupation. Occupiers of the new houses would be likely to support local businesses and services of neighbouring towns and villages. I attach considerable weight to this aspect of the appeal scheme.
14. The social role of sustainability includes supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, with accessible local services. A notable element of the appeal scheme is the stated intention that all twenty homes be affordable in line with the advice and recommendations of the Council's affordable housing officer. There is a demonstrable need for affordable housing in the village and in the unitary authority area as a whole. However the site does not meet the locational requirement for rural exception schemes embodied in Core Strategy CS11 and SAMDev Policy MD7a that would only permit affordable housing as exception sites at suitable locations adjoining the existing settlement limits.
15. Moreover, there is no section 106 Obligation or Unilateral Undertaking in place that would secure the site as an affordable housing development. The Council adopted its Type and Affordability of Housing Supplementary Planning Document (DPD) in September 2012 as part of the Local Development Framework. It makes it clear that a section 106 legal agreement will be required and provides model agreements in connection with this.
16. For the commitment providing 100% affordable housing to have proper effect, a section 106 Obligation must be in place before the grant of planning permission. To that end I find that the lack of a properly signed legal Obligation or Undertaking coupled with the development plan requirement that suitable affordable housing sites be located adjoining settlements represent fundamental obstacles to the grant of planning permission.
17. In terms of the environmental role, as the site falls outside the settlement boundary shown on the Proposals Map, Core Strategy Policy CS5 is relevant. The proposal would extend development beyond the established hedgerow along the northern edge of the village into what is part of a large open arable field and Grade 2 agricultural land. The development would be highly visible on the approaches to the village from the north and the west and would substantially interrupt the prevailing open pastoral landscape character and run counter to the linear pattern of development that is characteristic of this part of the village. I have noted that the site has recently been used as a temporary

builder's yard and that an area of allotments is situated directly opposite. However, the essential character of this area of open countryside remains unchanged and neither element can act as any precedent for housing development.

18. The development in combination with the adjoining Stony Yard housing scheme would introduce a nucleated form of development which would be out of kilter with the existing arrangement and be significantly harmful to the character and appearance of the area contrary to SAMDev Policy MD2, which requires new developments to respond appropriately to the form and layout of existing development and layout.
19. These matters weigh heavily against the proposal and are not balanced by the close proximity of the appeal site to local shops and some services. In the light of the above, I therefore conclude that notwithstanding the flexibility embodied within the development plan that allows sustainable development to come forward, the location of the appeal proposal would not provide a suitable location for housing having regard to the principles of sustainable development embodied within the Framework. In addition, it would also fail to comply with Core Strategy Policies CS4 and CS5 and SAMDev Policies MD2 and MD7a.

Open space provision

20. The appellant points out that the layout plan is for illustrative purposes only and that open space provision can be incorporated into the scheme when Reserved Matters are presented for approval later. SAMDev Policy MD2 would require the development to make provision for open space of at least 30sqm per person comprising an area of functional recreational space for play, recreation, formal or informal uses, including semi-natural open space whilst ensuring long term management arrangements are in place.
21. There remains significant doubt to my mind, given the number of dwellings proposed for this site, that sufficient space can be provided to meet the terms of this Policy. Whilst the appellant suggests that a registered social housing provider would be likely to be the end user and would retain ownership of any open space at the site, this is not set in stone and no satisfactory arrangements appear in place for its long term maintenance. I therefore conclude that the proposal would be contrary to SAMDev Policy MD2.

Other matters

22. I have considered all other matters raised, including representations by local residents and the views of the Parish Council. I consider that despite the site having moderate-high archaeological interest, a programme of archaeological investigation and recording could be appropriately conditioned in the event of this appeal being allowed, which is broadly in line with the advice of the Council's Archaeologist and which would be consistent with paragraph 14 of the Framework.
23. I have considered the matters raised by the highway authority and am satisfied that the present Stony Yard access extended into the appeal site would provide a suitable access and that no harm to highway safety would result. Given the location of the site in relation to existing shops and services, substantial pedestrian traffic would be generated across the B4397 close to the junction with the B5087. The appellant has responded to this eventuality by including

provision of a pedestrian crossing on the submitted drawings. The highway authority recommends a condition but also points out that such provision would normally require a prior section 106 Obligation or an appropriate agreement under the Highways Act. Given the agreement between the parties I am satisfied that, were I in a position to support the appeal, the matter could be dealt with by an appropriately worded planning condition.

24. Consequently, none of these other matters in my opinion comprise good reasons for refusing permission. However, this does not alter my conclusion that the development does not represent sustainable development for the reasons set above and that the proposal would be unlikely to meet the prevailing requirements relating to the provision of open space.
25. Accordingly, and for the reasons given together with all other matters raised, the appeal fails and planning permission is refused.

Gareth W Thomas

INSPECTOR

Richborough Estates