
Appeal Decisions

Site visit made on 5 August 2015

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 16 September 2015

Appeal A - Ref: APP/L3245/W/15/3017918

Land at Plealey Lane, Longden, Shrewsbury, SY5 8EX.

- 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 and Mrs D Jones, H Ratcliff, C Salmon, S Jones and Mr and Mrs P Jones against the decision of Shropshire Council.
 - The application Ref. 14/01704/OUT, dated 14 April 2014, was refused by notice dated 18 November 2014.
 - The development proposed is the erection of 35 dwellings to include means of access together with re-siting of school football pitch, provision of extended school car park and new school access.
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Appeal B - Ref: APP/L3245/W/15/3084321

Land at Plealey Lane, Longden, Shrewsbury, SY5 8EX.

- 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 and Mrs D Jones, H Ratcliff, C Salmon, S Jones and Mr and Mrs P Jones against the decision of Shropshire Council.
 - The application Ref. 15/00724, dated 12 February 2015, was refused by notice dated 21 May 2015.
 - The development proposed is residential development.
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Decisions

Appeal A - Ref: APP/L3245/W/15/3017918

1. The appeal is dismissed.

Appeal B - Ref: APP/L3245/W/15/3084321

2. The appeal is dismissed

Procedural and preliminary matters

Appeal A

3. The proposal in Appeal A was described in the planning application forms as 'residential development'; however it is clear from the covering statement submitted by the appellants' agent that other development was proposed including a new access, a parking area for the adjacent school and a re-sited

school playing pitch. These developments were included in the Council's description of the proposal along with a specification that the proposal was for 35 dwellings. I have therefore used this description in the appeal proposal as it is more accurate and I considered the appeal on this basis.

Both appeals

4. The proposals are both in outline format but with access arrangements to be considered at this stage. The other detailed aspects of the 'layout', 'scale', 'landscaping' and 'appearance' are reserved for subsequent approval.
5. Unilateral Undertakings dated 27 July 2015 and signed by the appellants, and made under Section 106 of the Act, have been submitted as part of the appeal documents. In general terms the Undertakings covenant the appellants to make provision for affordable housing as part of the development, in accordance with the Council's Supplementary Planning Document on affordable housing, and the provision of the school car park and school playing field and related ancillary development. I have had regard to the Undertakings as a material consideration subject to my comments in paragraphs 33 and 34 below.

Main Issues

6. The main issues are:
 - Whether the proposals accord with the development strategy for the area;
 - The effect on the character and appearance of the area;
 - Additionally in appeal A, the effect on existing mature trees;
 - Whether the proposals constitute sustainable development.

Reasons

Background

7. In general terms the appeal sites lie on the western edge of the village of Longden and to the south of Plealey Lane; north of an unmetalled lane; and west of the Longden C of E Primary School and its playing field. The site in appeal B involves a smaller part of the site in appeal A. Most of the site forms part of an open field which lies in an elevated position with the land rising up from both lanes. There is a public footpath to the west of the school grounds which runs adjacent to the playing field on part of the eastern edge of both application sites.
8. In both schemes it is proposed to obtain access from Plealey Lane from where an access road would sweep in a gentle curve into the field and provide access to the housing site. However, in appeal A the access road would continue to a new parking area of some 51 spaces intended to serve the school. Further, the scheme also proposes to partially re-site the school playing field to accommodate the parking area. In appeal B, the existing school playing field is undisturbed and land adjoining the south of it is proposed to be an area of public open space.
9. The Council says that at the moment Longden consists of 129 dwellings. The appellant says that Appeal A is intended to provide 35 dwellings, (a revision to

the initial outline proposal for 50 dwellings). In appeal B, the permission is sought for a maximum of 20 dwellings. I note that in both cases the planning officer recommended approval for the schemes but the decision of the Planning Committee was to refuse permission for the reasons given.

Accord with development strategy

10. The development plan for this area comprises the Council's Core Strategy adopted in 2011 (CS), saved policies in the Shrewsbury and Atcham Local Plan (2001) (Local Plan) and the emerging Shropshire Site Allocations and Management of Development Plan (SAMDev) Development Plan Document.
11. Taking these in turn in relation to the appeal site, the Local Plan indicates in saved policy HS3 that Longden is defined as a village where development will be permitted subject to specific criteria being met, including that the development site is wholly within the village boundary. The Council has not produced a copy of such a village plan for these appeals but given the open nature of the application sites I presume that neither formally lie within the village boundary. Both proposals are therefore in conflict with this aspect of the 'old' development plan
12. This policy generally accords with the provisions of the National Planning Policy Framework, 2012 (the Framework) which indicates in paragraphs 54 and 55 that sustainable development should be promoted in rural settlements to reflect local needs and therefore the policy should continue to have some weight.
13. The Core Strategy adopted in 2011 sets out a spatial vision for the county until 2026 and makes provision for the development of 27,500 new homes. As part of the strategy the CS allows for development in rural areas through 'Community Hubs' and 'Community Clusters' as defined in Policy CS4. The policy sets down criteria for development within these hubs and clusters. Outside of these defined places, Policy CS5 indicates that development will be strictly controlled in the countryside and the Green Belt.
14. The SAMDev DPD was submitted to the Secretary of State in 2014 and following Examination by an Inspector the Council has produced Main Modifications which are intended to make the DPD sound. The Council has consulted on these modifications in the period until 13 June of this year.
15. Policy S16.2(xi) of the SAMDev identifies Longden as a settlement within a wider Community Cluster and the policy states that "development by infilling, conversions of buildings and groups of dwellings may be acceptable on suitable sites within the villages with a housing guideline of approximately 10-50 additional dwellings over the period to 2026. Of these dwellings, 25-30 are to be in Longden village with the remainder spread evenly amongst the other Cluster settlements." The policy also makes reference to the Longden Parish Development Statement (2013) (LPDS) produced by the Parish Council which indicates that no individual site should be of more than 10-15 houses and a preference for lower cost 2-3 bedroom properties.
16. The Council says that the Inspector has decided not to propose any Main Modifications to the Policy S16.2(xi) and in the absence of unresolved objections to the policy it should be given significant weight in decision making. Therefore, although the SAMDev has not been formally modified and adopted, I

agree that significant weight can be given to the policies not identified as requiring modification in accordance with the guidance in paragraph 216 of the Framework.

17. Overall on this issue, within this adopted and emerging development plan framework, I find that a housing development on a suitable site within or around the village would, in principle, contribute to the context of between 25 and 30 houses overall would generally accord with the emerging development strategy for sustainable development in Shropshire for the period until 2026.
18. However there is an issue regarding the scale of any individual development sites. The appellant says that the limitation proposed in the LPDS is not a formal Neighbourhood Plan and should not be given weight. Nevertheless, it is referred to in the actual policy S16.2(xi) and therefore commands some weight. As the outline proposals stand the scheme in appeal A would be likely to exceed the local development strategy in the SAMDev and the limitation in the LPDS. While the lesser scheme in Appeal B would take up the majority of the development total for the village envisaged in the SAMDev but exceed the scale limitation for one site as envisaged in the policy with reference to the LPDS.

Housing Land supply

19. Coupled with the development strategy is the issue of housing land supply (HLS). The Framework indicates in paragraph 47 that in order to boost significantly the supply of housing, local planning authorities should identify a five year supply of sites for housing assessed against their housing requirements with additional buffers including where there is a record of persistent under-delivery of housing. Moreover, paragraph 49 indicates that policies for the supply of housing should not be considered up-to-date if the authority cannot demonstrate a five year supply of deliverable sites.
20. The Council indicates that its HLS position statement published in August 2014 concluded that the Council could demonstrate 5.47 years supply of deliverable housing land for Shropshire. This position regarding HLS was challenged and contested at the Examination hearings into the SAMDev in November 2014 by many developers and landowners. Further, in other local appeals before me the Council also refers to an update on HLS published in June 2015 which continues to assert that this supply is maintained. The update also refers to recent appeal decisions¹ where the issue was explored at hearings and the Inspectors concluded that a five years supply was demonstrated.
21. I have placed some weight on these decisions as they involved a considered analysis of the housing requirements and housing supply made in January and February 2015. However, in the current cases the appellant's team have submitted a further detailed assessment made by 'Berrys' in June 2015. This provides a rebuttal of the Council's HLS and in summary concludes that the methodology in the Council's approach to dealing with the deficit in delivery is incorrect and that the estimate of housing supply is overestimated by a detailed appraisal of individual sites. Accordingly it is submitted on behalf of the appellants that at the moment only a 4.28 year supply can be demonstrated. This conclusion has not been challenged by the Council in these appeals.

¹ APP/L3245/W/14/2228348 and APP/L3245/W/14/3000672

22. The issue of whether the emerging SAMDev makes sufficient provision to accommodate the housing requirement set out in the Core Strategy is principally a matter for the Inspector in his/her assessment of whether this part of the development plan is sound. However, in the meantime, the evidence submitted in this case casts doubt on the ability of the Council to now demonstrate a five year supply of land for new housing.
23. Normally, should I find that a five year supply of land for new housing cannot be demonstrated, such a state would result in the provisions of paragraph 49 of the Framework being engaged and the relevant 'housing supply' policies being found to be 'out of date' but in terms of development plan policy, it is only the emergence of this 'new' policy S16.2(xi) that puts 'flesh on the bones' of the Core Strategy at a local level and supports in principle some development outside of the existing built-up area of Longden.
24. In these circumstances, it is appropriate that I give most weight to the application of policies in the adopted Core Strategy and the guidance in the Framework.

Character and appearance

25. In assessing the effect of the development proposed on the character and appearance of the area I considered the impact of the development proposal from around the environs of the school playing field together with views of the site from Plealey Lane and the lane to the south of the larger site. I also note that the appeal sites are not subject to any special landscape designation.
26. Taking into account that the proposals are in outline form at this stage with all matters reserved other than access, I consider that in both appeals the main bulk of new development proposed would be visible on the crest of the higher land. As such it would be very noticeable on the skyline when viewed from the west along Plealey Lane and from the lane to the south. In both appeal schemes, development would appear prominent and isolated in the rural landscape and, for the most part, would not have the benefit of any backdrop of buildings in the existing village. I consider this visual impact to be significantly harmful to character and appearance of this area of countryside and the rural setting of the edge of the village and this visual impact is unlikely to be materially reduced by landscaping in the short and medium term.
27. I also agree with the Council's concern that the position of the access would extend significantly into open countryside and would enclose other open land. This would contribute to the appearance of isolation and prominence of both schemes. I find that the general nature of the sites proposed does not complement the existing pattern of development of the village which I noted at my site visit was largely based on frontage development along lanes with limited development in depth to the rear.
28. In relation to the policies in the Core Strategy I find that the nature of the land proposed for development has the physical characteristics of being countryside, rather than a mainly village and built-up environment, and to which Policy CS5 applies. This policy indicates strict control over new development and the proposed houses do not fall within any of the stated exceptions.
29. Further, I find both of the appeal schemes put forward would not be well integrated into the existing landform or the established pattern of the village

but would appear isolated and prominent. This impact would be significantly harmful to the character and appearance of the area. As such the development proposed would not protect, restore, conserve or enhance the natural and built environment and would not be appropriate in its local context. It would therefore not meet the criteria of 'Sustainable Design and Development Principles' set out in Policy CS6 and in particular those listed under the fourth bullet point.

Effect on trees

30. In relation to the second reason for refusal in respect of Appeal A, the Council's concern relates to the potential loss of mature trees within the site which are said to make a high contribution to the landscape character of the area. I considered these trees at my site visit.
31. Although the proposed new car park for the school in Appeal A would be sited close to one mature tree I am satisfied that the layout indicated need not harm most of the trees on the edge of the existing playing field. Further, in terms of the other isolated mature trees within the application sites, I am satisfied that the layout of the proposed housing schemes can be designed to avoid conflict with these specific mature trees and such a requirement could be conditioned in a landscaping scheme.
32. In terms of the effect of the visibility splay from the proposed access on an existing mature tree (which is now protected by a Tree Preservation Order) adjacent to Plealey Lane, I note the details submitted with Appeal B where the pavement would be sited on the side of the tree away from the highway. The presence of the trunk of the tree would interfere with visibility for road users to some degree but the highway authority officer advises that the location of the tree would not be material impediment to highway safety. I am therefore satisfied that both schemes make reasonable provision at this outline stage for the mature trees to be retained.

Other matters

33. Both appeals schemes are now accompanied by Unilateral Undertaking signed by the appellants. The Undertakings covenant the appellants to make provision, if planning permission is granted, for affordable housing in accordance with the Council's Supplementary Planning Document on affordable housing together with changes to the position of the school playing field and provision of a footway. The Council has expressed concerns about some of the details of the Undertakings and about its ability to require works to be completed outside of the land owned by the appellants. However, if I was minded to allow the appeals I am satisfied that the Undertakings could be amended to overcome these concerns, or in the absence of this, a negatively worded condition could be imposed in relation to the completion of the pedestrian footway.
34. Overall, I am satisfied that the provision for affordable housing offered is put forward to meet the terms of development plan policy and supplementary guidance and is necessary to make the development acceptable in planning terms. The provision is directly related to the development and is fairly and reasonably related to the development in scale and kind. I therefore find that the tests of the Community Infrastructure Levy Regulations 2010 and the requirements set out in paragraph 204 of the Framework (2012) are met.

35. Some of the letters of objection to the developments put forward by local people raise concern about the new houses overlooking their own properties and resulting in a loss of privacy. However, even with the outline plans I am satisfied that the likely separation distance between existing and new houses would be so great that there need not be direct over-looking.
36. Residents also raise concerns about additional traffic on local roads and the possibility of the land being a habitat for protected species. However there is no substantive evidence before me to demonstrate that these aspects are a fundamental issue in this area. I note that the highway authority did not raise objection to the proposal on the grounds of the adequacy of the local road network.

Planning Balance and whether sustainable development

37. Bringing together my conclusions on the main issues I have found that the emerging part of the development plan, the SAMDev, supports in principle the provision of some new development in Longden in the period until 2026 it restrains development to some 25-30 dwellings in total and the linked guidance in the Longden Parish Development Statement (LPDS) would limit the development on any individual site to no more than 10-15 dwellings and both of the appeal schemes would exceed this restriction.
38. However, the evidence submitted in this case by the appellant's team casts doubt on the ability of the Council to demonstrate a five years supply of deliverable housing sites. In the absence of information on the proposals for housing supply in the SAMDev being considered 'sound' following Examination, greater weight should be given to the assessment of the scheme in relation to the policies in the adopted Core Strategy and in relation to the national Framework.
39. The parties agree that in general terms Longden is a sustainable location for some new development but I have found that both of the schemes proposed would involve the development of land with the physical characteristics of an open countryside setting rather than be clearly part of or akin to the built up area of the village. I have also found that the development proposed in either scheme would not, in principle, be well integrated into the landform but would be isolated from the village and would be prominent and imposing in the rural landscape. For these reasons I conclude that the proposal does not accord with Policies CS5 and CS6 of the Core Strategy
40. In terms of the Framework, the proposal has to be regarded in the context that the government seeks to significantly boost the supply of houses and encourages sustainable development. Both housing proposals would support the social and economic dimensions of sustainable development by contributing to the life of the village and supporting local services and both proposals have scope to make provision for affordable housing and public open space. In appeal A, the proposal would also provide a large new parking area for the school and the resolution of parking congestion at the school is said to be an aim of the LPDS, (although I note that the proposals are not supported by the School Governors).
41. Nevertheless, on the evidence before me and my observations at my site visit, I consider that the visual and physical impact that the development would cause would result in significant local landscape harm. On this basis, I find

that both proposals would not accord with the environmental role needed to ensure sustainable development when the Framework is read as a whole.

42. On balance I conclude that the benefits of each proposal considered separately do not outweigh the significant adverse effects that I have identified in the context of paragraph 14 of the Framework and that the lack of accord with the provisions of the adopted development plan is not outweighed by any other consideration. I will therefore not allow the appeals.

Conclusions

43. For the reasons given above I conclude that the appeals should be dismissed.

David Murray

INSPECTOR

Richborough Estates