



Appeal Decision

Hearing held on 12 October 2021

Site visits made on 11 and 12 October 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2021

Appeal Ref: APP/L3245/W/21/3275873

Land South The Little Wickett, Rye Bank, Wem SY4 5RA

- 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 Ms G Foxley & Mr S Forbes against the decision of Shropshire Council.
 - The application Ref 20/03017/FUL, dated 28 July 2020, was refused by notice dated 11 February 2021.
 - The development proposed is erection of a local needs dwelling including garage and access.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a local needs dwelling including garage and access, at Land South The Little Wickett, Rye Bank, Wem SY4 5RA, in accordance with the terms of the application and the attached Schedule of Conditions.

Procedural Matters

2. Parties agreed at the hearing that the address provided in the header is correct.
3. A Section 106 legal agreement (s106) was submitted following the close of the hearing¹ which would secure the proposal to remain as an affordable dwelling in perpetuity. I consider the s106 to be necessary, directly related to the proposal, and to accord with the development plan. As such, it would accord with the tests for planning obligations set out in the National Planning Policy Framework (the Framework).
4. A copy of Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy-2011, (CS), was submitted at the hearing, upon my request. I consider no one would be prejudiced should I consider the s106 and Policy CS1 in the determination of the appeal. I have therefore taken them into account.
5. The Draft Shropshire Local Plan: 2016-2038, ie the Emerging Local Plan, (ELP), has been submitted for examination. Having regard to paragraph 48 of the Framework and the evidence before me, I agree with the parties that the ELP has limited weight at this stage.

¹ Dated 15th October 2021.

6. Within the evidence provided the place name of concern is referred to as both 'Rye Bank' and 'Ryebank'. For consistency and ease of reading, I have used Rye Bank throughout the decision, unless quoting from a specific source.

Application for costs

7. An application for an award of costs was made by Ms G Foxley & Mr S Forbes against the decision of Shropshire Council. This application will be the subject of a separate Decision.

Main Issue

8. The main issue is whether the site is a suitable location for a local needs affordable dwelling, taking account of relevant local and national policies and guidance.

Reasons

Local and national policies & guidance

9. With regard to housing development in rural areas, Policy CS1 of the CS seeks to ensure that rural areas will become more sustainable through a "rural rebalance" approach. Other residential development outside of the settlements of community hubs and clusters will only be for meeting the affordable housing needs of local communities.
10. Policy CS5 of the CS seeks to control development in the countryside. It allows for development on "appropriate sites" that maintain and enhance countryside vitality and character, where such development would improve the sustainability of rural communities; particularly where it relates to affordable housing to meet a local need and in accordance with national policies and Policies CS11 and CS12 of the CS. As well as having to demonstrate the need for such development, the development will be expected to take place primarily in "recognisable named settlements".
11. The explanation of Policy CS5 states that proposals which would result in "isolated, sporadic...or otherwise unacceptable development", or which may erode the character of the countryside, will not be acceptable.
12. Policy CS11 of the CS seeks to meet the diverse housing needs of the area and create mixed, balanced, and inclusive communities. This is to be achieved by, among other things, permitting exception schemes for local needs affordable housing on "suitable sites", including sites in "recognisable named settlements", subject to other criteria, including scale, prioritisation for local people and affordability in perpetuity.
13. Policy MD7a of the Shropshire Council Site Allocations and Management of Development Plan-2015, (SAMDev), seeks to manage development in the countryside. Suitably designed and exception site dwellings will be positively considered where they meet evidenced local housing needs and other relevant policy requirements². Additionally, to protect the long-term affordability of single plot exception dwellings, they will be subject to size restrictions, removal of permitted development rights and other appropriate conditions or legal restrictions.

² The Council has concluded that the appellants satisfy the relevant criteria. I have no justifiable reason to reach a different conclusion.

14. The Council's Type and Affordability of Housing Supplementary Planning Document-2012, (SPD), and Build Your Own Affordable Home Information Pack-2016, (IP), include guidance on development of local needs affordable housing on single plot exception sites. The SPD advises that sites which do not lie within or adjacent to a "settlement", or would adversely affect rural character, are considered not to be acceptable.
15. The SPD emphasises that each case is treated on its merits and that it is a matter of judgement as to whether a group of houses constitutes a settlement. Additionally, the SPD provides guidance regarding aspects to consider when assessing whether a small hamlet constitutes a "recognisable named settlement" (*vis a vis* Policy CS11 of the CS). Thus:
 - a settlement always comprises a "group of houses occupied by households from different families"
 - the group becomes a settlement due to the 'number' and 'proximity' of the houses in a group³. It is the combination of these two factors that determines whether the dwellings constitute a settlement
 - "recognisable settlements are also characterised by how local people refer to them - by a place name that is shared by a number of dwellings"
 - it will usually be named on the Ordnance Survey map
 - the character of the area will influence the assessment...a settlement is a relationship between different properties...the limits of a settlement varies, and such limits may differ between loose-knit and tight-knit settlements
 - to assist in the assessment, the views of the local Shropshire Council Member and the Parish Council may be taken into consideration.
16. Policy MD2 of the SAMDev states that, for a development proposal to be considered acceptable, it is required to contribute to and respect locally distinctive or valued character.
17. Policy CS6 of the CS requires all developments to be designed to a high quality and to protect the natural and built environment, taking account of local context and character, including the pattern of development.
18. Paragraph 78 of the Framework advises that, in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs.
19. Additionally, paragraphs 79 and 80 advise that housing should be located where it will enhance or maintain the vitality of rural communities to promote sustainable development in rural areas, although the development of isolated homes in the countryside should be avoided.

³ The SPD does not specify the number of dwellings or the nature and extent of their proximity to each other for a group to become a settlement. Additionally, 'settlement' is not defined in the Framework.

Site location & context

20. For planning policy purposes, the site is within open countryside and its land use is agricultural. It is located on the western side of a country lane, immediately south of The Little Wickett, a site which comprises several agricultural buildings and other structures utilised for looking after livestock and burning commercial waste, under licence from the Environment Agency. The site is located opposite an access that serves what was part of a separate farmstead, comprising of farmhouse and some farm buildings. This farmstead has been redeveloped in recent years resulting in creating what, in my opinion, is now a small group of 6 No. dwellinghouses in this location.
21. I appreciate that the presence of the lane would create some separation between the proposed dwelling and the nearest dwellings on the site of the former farmstead. However, given that the lane is narrow and that the access to the proposed site would be directly opposite the access that serves several of the dwellings on the former farmstead, in contrast with the Council's opinion, I am of the view that the proposed dwelling would read as part of this group.
22. The site is located within the place identified on Ordnance Survey maps as "Ryebank". The Council acknowledges in its statement that the local community refer to Rye Bank by its name. In the opinion of the local councillor (as was) Rye Bank consists of 17 residential properties and The Little Wickett, each of which have the postal address of Rye Bank. The councillor also considers the properties to be arranged in a loose-knit, linear pattern of development sited either side of the lane, stemming from Oak Tree Cottage at the northern end to Jessamine Cottage at the southern end. Due to such factors, the councillor's view is that Rye Bank constitutes a named recognisable settlement that accords with relevant local policies and guidance.
23. Parties agree that each of the 17 dwellings identified as having the address of Rye Bank are occupied by households from different families; I have no grounds to conclude otherwise. I agree with the assertion that these properties are arranged in a loose-knit, linear pattern of development. Much of the wider area of north Shropshire is rural and characterised by dispersed hamlets and farmsteads. I consider Rye Bank to constitute a small hamlet like many other hamlets in the surrounding area.
24. Although the Council pointed out at the Hearing that the Parish Council (PC) did not support the proposal, I note that neither did the PC object to the proposal on the grounds of it not constituting a local needs affordable dwelling or the site not being within a named recognised settlement.
25. I have taken account of the illustration of a 'loose-knit' settlement provided in the SPD and the development patterns of some settlements where local needs affordable dwellings have been permitted, eg under applications 17/04907/FUL, 19/03977/FUL, 20/02569/FUL and 20/04102/FUL⁴. To my mind the relationship the proposed dwelling would have with the group of dwellings opposite the site and the pattern of development which constitutes the hamlet of Rye Bank, would not differ significantly from either the development patterns of

⁴ I accept that each case must be determined on its merits. However, I also consider the decisions of the Council on the applications referred to constitute a material consideration. I appreciate that these applications are only a small selection of the Council's decisions on such applications. Nevertheless, and although I attach only limited weight to them, they do provide some insight into how the relevant policies and guidance are interpreted and applied locally.

settlements in the permissions referred to or others within the surrounding north Shropshire area.

26. When viewed from what would be a limited number of public vantage points, I consider the proposal would be seen adjacent to the existing agricultural buildings on The Little Wickett, close to the group of dwellings across the lane at the former farmstead and in keeping with the existing rural, loose-knit, linear pattern of development within Rye Bank. I appreciate the Council's reading of the area and the factors that lead to it concluding the proposal would not read as being associated with any of the existing properties in Rye Bank, and that Rye Bank does not constitute a settlement. However, bearing in mind all the above, I consider the hamlet of Rye Bank to constitute a named, recognised settlement. I therefore also conclude, considering the judgement in *Braintree*⁵, that the proposed development would not create a dwelling that would be isolated from a settlement.
27. I acknowledge that the proposal would not be located close to services and facilities required to meet the day-to-day needs of future occupiers. Nor would it be located close to public transport options, and the opportunities for walking and cycling to access services and facilities to meet every-day needs would be limited. As such, future occupiers would be reliant on a private motor vehicle, which is the least sustainable mode of transport.
28. However, although local policies and guidance seek to direct new rural housing development towards the more sustainable rural communities, inevitably the objectives of the policies and guidance of relevance here, ie providing affordable housing in rural areas to meet local needs to create mixed, balanced, and inclusive communities and become more sustainable, are likely to result in development of the kind proposed not being in proximity to the range of services and facilities future occupants would require to meet their day-to-day needs.
29. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and advises that this should be considered in decision-making. Furthermore, sustainable development, as outlined in the Framework, includes social and economic dimensions. The proposal would allow the appellants to remain in the area, providing an affordable home close to family and existing employment; the proposal would also provide, all-be-it minor, economic benefits during the construction phase. Although both the social and economic benefits associated with the proposal would be small-scale, nevertheless they would contribute to the vitality and therefore sustainability of the rural communities in the area.
30. As noted above, Policy CS6 of the CS requires all developments to take account of local context and character, including the pattern of development. Policy CS5 advises that proposals which would erode the character of the countryside will not be acceptable; and Policy MD2 of the SAMDev requires development to respect local character. I disagree with the Council's conclusion that the proposal would not relate to the pattern of development in Rye Bank and that it would extend into open countryside in a manner unrelated to any existing development. Additionally, the size of the proposal is within the parameters of relevant policy & guidance, the design is in keeping with properties in the area, and external materials could be controlled by condition. I therefore conclude

⁵ *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610

that the proposal would be in keeping with and would maintain the rural character and appearance of the area.

31. Bearing all the above in mind, I conclude that the proposal would not result in isolated or sporadic residential development in the countryside and that it would not harm the character or appearance of the rural area. Additionally, I consider the proposal would make a small contribution to improving the sustainability of the rural communities within which it would be located. As such, I conclude that the site would be a suitable location for a local needs affordable dwelling. The proposal therefore accords with Policies CS5, CS6 and CS11 of the CS, MD2 and MD7a of the SAMDev, guidance in the SPD, and policies pertaining to affordable housing development in the countryside in the Framework.

Other Matters

32. The need for the appellants to build a dwelling as proposed has been questioned. However, as noted above, the Council concluded, following the recognised process of assessment, that the appellants meet the eligibility criteria outlined in the relevant policies and guidance. I have not been provided with any substantive evidence to demonstrate otherwise.
33. It has been suggested that the site and adjacent fields are subject to flooding. Although I have seen the photographs submitted showing pools of water in the fields, I have not been provided with any evidence which demonstrates that there are significant flooding issues on the site. Additionally, as noted below, a condition will be attached to the permission requiring details of foul and surface water drainage to be submitted to and approved by the Council, and subsequently implemented by the appellants.
34. Questions have been raised regarding breaches of planning and environmental control on the site of The Little Wickett. Also, it has been suggested that, should the proposal be allowed, a condition should be attached to prevent the burning of waste on the site of The Little Wickett. However, such matters are outside the scope of this appeal.

Conditions

35. A list of conditions was provided in the signed Statement of Common Ground. Parties agreed at the hearing to the wording of most of the conditions as outlined in the Schedule of Conditions attached, and to the wording of others being amended where necessary to comply with guidance in the Framework and Planning Practice Guidance (PPG).
36. As there have been amendments to plans/drawings during the application process, I have attached a condition specifying the approved plans/drawings, for the avoidance of doubt. As noted above, a condition is attached requiring details of surface water and foul drainage to be approved by the Council, in the interests of managing flooding on site and public health.
37. Conditions are attached requiring details of external materials and landscaping to be approved by the Council, to protect the character and appearance of the area; and, in respect of landscaping, in the interest of biodiversity. I have attached further conditions in the interests of biodiversity and to ensure the protection of protected species. In the interests of highway safety, I have attached conditions related to access, parking and turning areas.

38. I have attached a condition removing certain permitted development rights and a condition preventing the garage being used as residential accommodation. These are to ensure the size of the property remains within the parameters of the size of an affordable dwelling in the area. This complies with Policies MD7a of the SAMDev and CS11 of the CS, and I am satisfied that it adheres to the conditions tests outlined in the Framework and the PPG.

Conclusion

39. For the reasons outlined above, I conclude that the appeal is allowed.

J Williamson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Peter Richards	Peter Richards & Co Property Consultancy
Martin Parrish	The Planning Group Ltd
Dave Richards	The Planning Group Ltd
Holly Walker	Peter Richards & Co Property Consultancy
Gemma Foxley	Appellant
Simon Forbes	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Richard Denison	Shropshire Council
Phillip Mullineux	Shropshire Council

OTHER INTERESTED PERSONS:

James Horsley	Local resident
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DOCUMENTS SUBMITTED PRIOR TO, DURING AND FOLLOWING THE HEARING

1. Statement of Common Ground dated 28 September 2021.
2. Copy of Policy CS1 of the CS.
3. Copies of location plans associated with the following planning permissions:
Refs 17/04907/FUL, 19/03977/FUL, 20/02569/FUL and 20/04102/FUL.
4. Section 106 legal agreement dated 15 October 2021.

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Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development shall be carried out strictly in accordance with the following approved plans/drawings: Location Plan & Site Plan A-01 Rev B, Proposed Floor Plan and Elevations A-02 Rev A.
- 3) No development shall take place until a scheme of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied.
- 4) Prior to the above ground works commencing, samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
- 5) Development shall be undertaken in complete accordance with the Ecological Appraisal prepared by Greenscape Environmental dated 17th September 2020.
- 6) Prior to the erection of any external lighting on the site, a lighting plan shall first 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, such as bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed taking account of the advice set out in Guidance Note 08/18, Bats and artificial lighting in the UK, produced by the Bat Conservation Trust and Institute of Lighting Professionals. The lighting shall be installed and operated in accordance with the approved details.
- 7) Prior to the development hereby approved being occupied, details of bat enhancements to be installed on site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the dwelling being occupied and retained thereafter for the lifetime of the development.
- 8) No above ground works shall commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The landscape works shall be carried out in full compliance with the approved details. Any trees or plants that are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective within a period of five years after planting, shall, upon written notification from the Local Planning Authority, be replaced with others of similar species, size and number as those originally approved, by the end of the first available planting season following notification.

- 9) The approved access, parking and turning areas shall be satisfactorily completed and laid out in accordance with drawing number A-01 Rev B prior to the dwelling being occupied. The access, parking and turning areas shall thereafter be maintained and available for use at all times, without impediment to their designated purposes.
- 10) The approved access shall be constructed in accordance with details outlined in the Shropshire Manual for Adoptable Roads & Transport 2021, and any associated documents. The access shall be completed and available for use prior to the dwelling being occupied.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking and re-enacting that Order with or without modification, no access gates shall be erected within 5 m of the adjacent highway edge; the access and driveway shall be kept clear of any obstruction to their designated purpose for a distance of 5 m from the adjacent highway edge.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking and re-enacting that Order with or without modification, no development relating to Schedule 2, Part 1, Classes A, B, C, D and E shall be carried out.
- 13) The garage building hereby approved shall only be used for storage purposes incidental to the enjoyment of the residential dwelling hereby permitted. The garage shall not be used as living accommodation nor shall it be extended or physically linked to the main dwellinghouse.

<<<<< End of Schedule >>>>>