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# Appeal Decision

Site visit made on 24 November 2015

**by Louise Nurser BA (Hons) Dip Up MRTPI**

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

**Decision date: 2 February 2016**

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**Appeal Ref: APP/L3245/W/15/3024055**

**Wayside Cottage, Ashford Carbonel, Ludlow SY8 4BX**

- 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 Mr Simon Angell against the decision of Shropshire Council.
  - The application Ref 14/01871/FUL, dated 23 April 2014, was refused by notice dated 27 March 2015.
  - The development proposed is erection of a dwelling and garage/office, alteration to an existing vehicular access.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. Since the appeal was submitted the Shropshire Site Allocations and Management of Development Plan (SAMdev) has been adopted in December 2015. Consequently, where the saved Policy SDS3 of the South Shropshire Local Plan 2004- 2011 referred to within the Council's refusal notice has now been superseded, I refer to the relevant recently adopted policies.
3. I sought the views of both parties on the implications of the adoption of the SAMDev which I have taken into account in coming to my decision.
4. An application for a single affordable dwelling has previously been approved<sup>1</sup> at the site and building work has already commenced. The appellant wishes to build an open market house of a broadly similar but different design in the same location. I have determined the appeal on the basis of the proposed development for open market housing.

## Main Issue

5. The Council has raised no objection to the design of the proposed development with which I concur. The main issue is therefore, whether the location is a sustainable location for open market housing.

## Reasons

6. Following the examination into the recently adopted SAMDev the Inspector concluded that the Council was able to demonstrate a five year supply of

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<sup>1</sup> 11/05428/FUL

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deliverable housing and on the basis of the evidence which has been provided to me, including issues of viability, I have no reason to come to a different conclusion. Consequently, in accordance with Paragraph 49 of the Framework the relevant policies for the supply of housing are considered to be up-to-date.

7. Paragraph 47 of the Framework sets out the need to significantly boost the housing supply and paragraph 49 refers to the requirement for housing applications to be considered in the context of the presumption in favour of sustainable development, which paragraph 14 describes for decision-taking, as approving development proposals that accord with the development plan without delay unless material considerations indicate otherwise.
8. Paragraph 55 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural settlements. Paragraph 10 of the Framework requires local circumstances to be taken into account as a means to respond to different opportunities for achieving sustainable development. Policies CS1 and CS4 of the Shropshire Local Development Framework: Adopted Core Strategy – March 2011 (CS) sets out the locational strategy for Shropshire which reflects its rural nature. It directs development within the rural areas predominantly to settlements which are defined as a Community Cluster or Community Hub as a means of realising the 'rural rebalance'<sup>2</sup>.
9. The appeal site lies in a large garden in the core of the village of Ashford Carbonel. The village possesses a recently built substantial school which I understand serves a wider area; a church and a Village Hall, which doubles as a community pub; and a bus service, although, I have no evidence of where and how often the bus service runs. Moreover, the village has not been identified as a Community Cluster or Hub within the recently adopted Policy MD1 of the SAMDev which provides for the scale and distribution of development within the Settlement Policy Framework. Consequently, the proposed development for new build open market housing falls to be considered in the context of Policies CS5 and CS11 of the CS, and Policy MD7a of the SAMdev, which set out a number of detailed criteria to control new housing on sites outside of the defined Community Hubs and Clusters by restricting residential development to: affordable housing on exception sites; rural conversions; and housing for essential rural workers.
10. Policy MD3 provides for the delivery of sustainable housing to provide for an appropriate mix of housing types outside of allocated sites by reference to the locational policies of both the adopted CS and the adopted SAMdev. Windfalls are considered to be vital to the delivery of the housing supply<sup>3</sup> in Shropshire.
11. However, I note that new build market housing only makes up one aspect of the rural housing supply which also includes housing for rural workers, conversions and affordable housing exception sites.
12. I have been referred to the sustainability of the proposed development. Sustainability has three dimensions: economic, social and environmental. The construction of the property would result in a limited economic benefit to the local economy through direct and indirect employment, monies through CIL

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<sup>2</sup> Paragraph 28 of the Shropshire Council Site Allocations and Management of Development Local Plan, Inspector's Report October 2015

<sup>3</sup> Paragraph 44

and the New Homes Bonus. The open market housing would provide potential patronage of the village hall and school, and a financial contribution towards affordable housing. The site lies within the village and would therefore not encroach on the open countryside. However, any future occupant would require access to a private car in order to meet their day to day needs which would be met outside the village. As such I conclude that the cumulative benefits of the proposed development would be unlikely to significantly enhance the vitality and viability of the rural community as set out in Paragraph 55.

13. In addition, the proposed open market housing does not fall within any of the exception categories for development within the open countryside. Therefore, I conclude, that whilst the proposed development would not encroach into the open countryside, as it would not provide affordable housing as an exception site, is not a conversion and would not provide for an essential need for a rural worker it would compromise the principles of sustainable development as it would result in new-build open market housing contrary to Policies CS1, CS4, CS5 and CS11 of the CS and Policies MD1, MD3, and MD7a of the recently adopted SAMdev.

#### *Other matters*

14. The appellant wishes to live in the property with his daughter and move from the neighbouring Wayside Cottage which I understand is considered too small for their needs. The appeal site was considered to be suitable for affordable housing under the Council's affordable housing policy as an exception site under the 'Build Your Own' category of the Shropshire Local Development Framework: Type and Affordability of Housing Supplementary Planning Document (SPD) adopted 2012. It has been suggested that the previous approved proposal could not be pursued due to a lack of a suitable funding mechanism.
15. However, there is not sufficient evidence before me to conclude if this were the case. Irrespective, of whether it was, I have determined the appeal on the basis of the merits of the proposal before me for unrestricted open market housing.
16. I appreciate that at one time the officers intimated that the proposed development would be acceptable. In addition, I have been referred to a planning permission which had been granted elsewhere within the village for open market housing. However, I understand that the circumstances in which the application was approved were different, as at the time the policies of the SAMdev had not been adopted and were therefore accorded limited weight. In addition, I have been provided with a copy of the related Officer's report in which it was stated that the village of Ashford Carbonel was considered to be sustainable. However, I note that the lack of shops and limited services weighed against the proposal. Moreover, I do not have the full details of the permitted development before me and, in any case, have determined the appeal before me on its own merits in the context of an altered policy situation.
17. In addition, my attention has also been drawn to a recent appeal decision at Wem<sup>4</sup>. However, I note that the circumstances were different, including that the decision had been made before the adoption of the SAMdev, and, albeit the

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<sup>4</sup> APP/L3245/W/15/3029727

land was located in open countryside it was close to Wem, a market town which is proposed to provide for additional market housing. This contrasts with the village of Ashford Carbonel which does not even fall within the category of Community Cluster or Hub. Moreover, I am not sufficiently familiar with the details of the appeal proposal and site to consider the relevance of it to this appeal, on which I have, in any case, reached my own conclusions on the basis of the evidence before me.

18. I note that the site is within the Ashford Carbonel Conservation Area (CA). However, the proposal would be in keeping with its surroundings and as such would preserve the character and appearance of the CA as a whole, as well as the setting of the nearby Home Farm, a Grade II listed building, to whose preservation I have had special regard.

*Obligation*

19. Following the High Court Judgement (HCJ) in the case of West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government (2015), which was handed down on 31 July 2015 and the Declaration Order made on 4 August 2015 the appellant provided a signed and dated unilateral undertaking relating to an affordable housing contribution arising from the proposed development. This would result in a limited social benefit of the proposed development. However as the appeal is to be dismissed for other reasons it has not had a significant bearing on my decision.

**Conclusion**

20. For the reasons set above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

*L. Nurser*

INSPECTOR