

# Appeal Decision

Site visit made on 2 February 2015

**by Declan Beggan BSc (Hons) DipTP DipMan MRTPI**

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

**Decision date: 25 February, 2016**

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**Appeal : Ref: APP/L3245/W/15/3137787**

**Land off Old Chester Road, Hinstock, Shropshire, TF9 2SY**

- 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 Richard McLaughlin of Charmford Homes Limited against the decision of Shropshire Council.
  - The application Ref 15/02538/FUL dated 11 June 2016 was refused by notice dated 19 October 2015.
  - The development proposed is described as 'Four bungalows with access'.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. Since the submission of the appeal the Council has adopted its *Site Allocations and Management of Development Plan* (SAMDev). In light of the advanced stage of its preparation, this document was referred to in the reason for refusal along with policies from the Shropshire Core Strategy (CS). As indicated in their statement, the appellant was clearly aware of the preparation of this document and the 'Final Comments' stage gave both parties the opportunity to address any implications arising from the adoption of this document. Accordingly the SAMDev, whose policies have been found to be sound, along with the Core Strategy (CS), form the statutory development plan for the area. I have considered the appeal on this basis.

## Main Issue

3. The main issue in this appeal is whether or not the proposal would provide a suitable site for housing, having regard to the principles of sustainable development.

## Reasons

4. The appeal site forms part of parcel of land that is roughly rectangular in shape and up to relatively recently was used as allotments. It is situated along Old Chester road, a cul de sac which has a number of properties located along it. To the west of the site is a dwelling, to the east are more allotments, to the north is agricultural land, whilst to the south lies Old Chester road, beyond which is a copse of trees and the A41. The site lies close to, but outside the settlement boundary for Hinstock as indicated in the SAMDev, and therefore is designated as open countryside.
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5. Policy CS4 of the CS sets out the Council's strategic approach to housing provision in rural settlements such as Hinstock. In order to encourage sustainable rural development policy CS4 seeks to direct new development into Community Hubs (CH) and Community Clusters. The SAMDev promotes Hinstock as a CH, and that as a guide 60 additional dwellings over the plan period to 2026 are to be provided through infilling, groups of houses, and the conversion of buildings within the development boundary of the village.
6. The appeal site is not within the development boundary for Hinstock, and consequently policies CS5 of the CS and MD7a of the SAMDev, which strictly control new open market housing, are applicable. Both policies limit new housing in the open countryside to that which is needed to house essential rural workers, to affordable housing to meet local needs, and to the replacement of existing dwellings. Whilst the appellant argues the proposed development would meet the needs of the elderly, I see no reason why this need could not be met by allocated sites within development boundary of Hinstock. The proposal is for new build open market housing and, therefore, would not be the type of scheme that would normally be permitted under the policies. Consequently the proposed development would be contrary to policy CS5 of the CS and policy MD7a of the SAMDev.
7. The appellant has drawn my attention to Policy MD3 of the SAMDev, which indicates that in addition to allocated housing sites, permission will also be granted for other sustainable development, subject to other policies in the plan and the CS, including policy CS5, to which I have concluded the proposal would be contrary.
8. Policy MD3 of the SAMDev foresees housing development beyond the settlement boundary, but only where the settlement housing guideline appears unlikely to be met. In this case the Council have indicated that currently permission has been granted for 42 dwellings. Therefore, with the plan not due to expire until 2026, it would appear that the guideline is likely to be achieved in the village from sites within its boundary, irrespective of whether those permissions are currently in outline form. I appreciate the guideline is not a maximum figure; nonetheless, at this moment in time I am not convinced it is necessary to develop land beyond the settlement boundary.
9. The appellant questions whether the Council can achieve a five year supply of deliverable new housing sites, and highlights that there has been a record of persistent under delivery in the past, and the need to make up for an existing shortfall in housing completions. SAMDev policy MD3 refers to managing the delivery of housing development. The policy makes reference to paragraph 49 of the NPPF which effectively allows housing development to take place beyond settlement boundaries if a five year supply of land is not demonstrated.
10. The assessment of an adequate supply of new housing was at the core of the SAMDev Examination, and the Examining Inspector concluded in paragraph 70 of her report that the plan addresses the housing allocations necessary to ensure delivery of the required scale of new housing consistent with the CS. I am therefore satisfied that at present, the requirements of paragraph 49 of the NPPF are met. I note the appellant's comments that the five year supply of housing land is marginal, but the evidence before me is that the Council does have a five year supply of housing land.

11. Pulling the threads of the above together, the adopted development plan for the area recognises that Hinstock is a village that can accommodate some growth, but that growth is limited to a sustainable level. That growth in the first instance is to be found within the settlement boundary of the village which has recently been found to be sound. The proposed development would not be within the settlement boundary. Notwithstanding the appellant's concerns about under delivery of housing sites, the Council can currently demonstrate a 5 year housing land supply, and the submitted evidence indicates that the village is highly likely to achieve the proposed level of growth within its settlement boundary. Accordingly, I consider that at this stage, the proposal would be contrary to the development strategy for the area.
12. The appellant argues the NPPF confirms that a five year land supply is not a ceiling on otherwise sustainable development. The NPPF, taken as a whole, constitutes the Government's view of what sustainable development means in practice for the planning system. Paragraph 7 of the NPPF identifies three dimensions to sustainable development, namely, economic, social and environmental; whilst paragraph 8 notes that these roles are mutually dependent and should not be looked at in isolation.
13. The appellant argues the proposed development would not appear incongruous in the open countryside, and that the existing development either side of it, its delineation by existing hedging, and its screening from the A41 by trees, result in the site not being perceived as part of the countryside. It is also maintained that it is not isolated from adjacent development that forms part of the village.
14. Contrary to the appellant's opinion, the development of a site which has an open nature, with four dwellings that would have a roadside frontage of some 60 metres would result in the encroachment of the built form into the countryside. Whilst I appreciate there are other dwellings along Old Chester road, nonetheless my impression of the site was that of an open rural location whether it was viewed from either end of the cul de sac. The trees and hedging that form the roadside boundary of the site, the adjacent allotment site, in addition to the copse of trees opposite the site, to my mind reinforces the fact that the immediate locality has a distinctive rural nature that is different from the built form of the village to the south east.
15. Whilst the site is not subject to any statutory or local landscape designations, nonetheless, its development with four dwellings would fundamentally alter the site's character and appearance, and extend the built form of the settlement into the countryside to the detriment of the character and appearance of the area. I attach significant weight to this environmental harm. In addition such harm would run contrary to policy CS6 of the CS which seeks to ensure, inter alia, that new development protects and enhances the natural environment and takes into account local character, and the context of the area.
16. The appellant argues that the proposed development would be no less sustainable than the SAMDev allocation HIN009, however, I do not consider it is directly comparable as that site backs onto and is hemmed in by development in the form of the A41 on one side and also Chester road, with the majority of its other boundaries adjacent to the existing built form of the village.
17. I accept the proposal would not constitute isolated development due to its proximity to the existing built up part of the village. I also accept that it would

be within a reasonable walking distance of local services that are found in the village, and where local bus services could be accessed, thereby offering the potential for travel by means other than the private motor car, which I attach modest weight to in support of the proposal.

18. The proposed development would provide some economic and social benefits. The proposed development would bring short term employment benefits during its construction phase, in addition to its residents contributing to the local economy. The proposed development would also result in a Community Infrastructure Levy (CIL) payment, the New Homes Bonus, and payment of Council Tax. However, given the scale of the scheme, these benefits would be limited, and would in any event be common with new dwellings within the development boundary.
19. The occupiers of the dwellings would strengthen and sustain the local community by using facilities such as the village shop and public house. In this respect the scheme would help to enhance the vitality of the local community. However, the contribution four dwellings would make to the vitality of the community and support it would give to local services would be very modest; I therefore attribute limited weight to any economic or social benefits in regards to sustaining the viability of the community.
20. The development of the site for four bungalows would only make a modest contribution to the overall supply of housing; I therefore attribute limited weight in regards to this social benefit.
21. I note the appellant's willingness to enter into a legal agreement in regards to contributing to the provision of funding for affordable housing through a Section 106 Obligation, in line with policy CS11, however, I do not have a signed Unilateral Undertaking before me to secure the contributions, and therefore I do not consider it appropriate to consider any social benefits which might be provided by the proposal in this respect, nor for that matter whether these contributions are necessary.
22. Consequently the proposed development would result in limited economic and social benefits. In regards to other environmental matters, the site is reasonably well located in terms of shops, services and public transport links, all of which I attribute modest weight to.
23. However, based upon the three stranded definition of sustainable development at paragraph 7 of the NPPF, and the rest of the document taken as whole, the significant environmental harm I have identified in regards to the harmful encroachment into the countryside outweighs the modest and limited weight I attach to some environmental, economic, and social dimensions of the proposal, and therefore in the overall balance, I do not consider the proposal would represent sustainable development in this regard. In addition it would not accord with the development strategy for the area which provides for growth and development in a sustainable manner.
24. The appellant maintains the development of windfall sites, such as the appeal site, is an important element of housing land supply as indicated by the supporting text to policy MD3 of the SAMDev. Policy MD3 indicates that in addition to allocated housing sites, planning permission will also be granted for other sustainable housing development subject to other policies in the plan, including policy CS5. However, as I have concluded that the proposal would be

contrary to policy CS5, and I do not consider it to be a sustainable development; it follows it would not be an appropriate windfall development as mentioned in policy MD3.

25. Consequently the proposal would not constitute a sustainable form of development having regard to the development strategy for the area that seeks to promote sustainable development, and to strictly control development in the countryside. It is therefore contrary to policies CS4, CS5 and CS6 of the CS, and the requirements of policies MD3 and MD7a of the SAMDev Plan, and it would not represent sustainable development when the NPPF is read in its totality.

#### *Other Matters*

26. The appellant draws comparisons to the policy position between the appeal proposal and an appeal allowed under Ref. APP/L3245/W/15/3029727. However I do not consider the allowed appeal is directly comparable as that decision pre-dated the publication of the Inspector's report of the SAMDev, where the Inspector referred to uncertainty as to the final form of the policies such as MD3, and consequently afforded the policies only moderate weight. Those policies in the SAMDev have since been found to be sound, and now form part of the statutory development plan for the area. The appellant also draws attention to an appeal in East Cheshire under Ref. APP/R0660/A/13/2196044, where the Inspector was not persuaded that an 18% reliance on strategic locations within five years was achievable, with the circumstances not dissimilar to the situation in Shropshire. However, I do not have full details of the appeal being referred to, and so cannot be sure that it represents a direct parallel to the current appeal proposal. In any event, each appeal must be considered on its own merits, and I have determined this appeal on the basis of the evidence as presented.
27. Whilst the appellant maintains the site, if granted permission, would be delivered in 2016, this does not justify development that is otherwise unacceptable, and contrary to local and national planning policies.

#### **Conclusions**

28. For the reasons given above, and having had regard to all other matters raised, I conclude the appeal is dismissed.

*Declan Beggan*

INSPECTOR