

## Appeal Decision

Site visit made on 20 May 2016

**by R C Kirby BA (Hons) DipTP MRTPI**

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

**Decision date: 07 July 2016**

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**Appeal Ref: APP/L3245/W/15/3139585**

**Oldbury House, Oldbury Road, Bridgnorth, Shropshire WV16 5HA**

- 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 Professor Quentin Leiper against the decision of Shropshire Council.
  - The application Ref 14/05717/FUL, dated 19 December 2014, was refused by notice dated 24 September 2015.
  - The development proposed is new three bedroom house and associated garaging.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Professor Quentin Leiper against Shropshire Council. This application is the subject of a separate Decision.

### Procedural Matters

3. Since the planning application was determined, the Site Allocations and Management of Development Plan (SAMDev) has been adopted by the Council. The Bridgnorth District Plan referred to in the Council's decision notice no longer forms part of the development plan. The development plan for the area comprises the Shropshire Local Development Framework: Adopted Core Strategy (CS) and the SAMDev.
4. The Appellant has provided a Unilateral Undertaking (UU) pursuant to Section 106 of the Act providing for a financial contribution to be made towards the provision of affordable housing. This is considered later in my Decision.

### Main Issues

5. The main considerations are:
    - whether a new dwelling in this location would be consistent with the principles of sustainable development, having particular regard to its impact on the character and appearance of the area and the access the intended future occupants would have to services and facilities in the area; and
    - the appropriateness or otherwise of contributions sought towards the provision of affordable housing.
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## Reasons

### *Principles of Sustainable Development*

6. The appeal site comprises part of the garden of Oldbury House. There is no dispute between the main parties that the appeal site is located outside of any defined settlement boundary. Whilst it is located within the settlement of Oldbury and there is residential development within the vicinity of the site, for planning policy purposes, the site is located within open countryside.
7. Policy MD7a of the SAMDev states that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. These areas are identified within Policy MD1 of the SAMDev. Oldbury is not identified within this policy. There are however exceptions to this strict control including dwellings to serve a local housing need; housing for essential rural workers; limited conversions and replacement dwellings. Policy CS5 of the CS has a similar objective of strictly controlling development in the countryside, subject to a number of exceptions.
8. The appellant has drawn my attention to the Shropshire Local Development Framework: Strategic Housing Land Availability Assessment (SHLAA) published in July 2014 which identified Oldbury as being part of Bridgnorth and having long term potential for new development. Whilst this may have been the case at that time, it is clear from the SAMDev that the village is not designated as a Community Hub or Community Cluster and as such is classed as countryside, where new development is strictly controlled. I therefore attach little weight to the SHLAA referred to which pre-dates the adoption of the SAMDev in any event.
9. The appellant considers that the note at the end of Policy MD1 of the SAMDev supports the appeal proposal. This note states: *'There is a further level of the settlement policy framework in the form of other 'recognisable named settlements' where Policy CS11 permits exception schemes for local needs housing on suitable sites'*. Although I acknowledge that Oldbury is a recognisable named settlement, the proposal for a market dwelling would not comprise an exception scheme for local needs housing.
10. The appellant's desire to move into a smaller, more manageable house with high energy efficiency would not fall within any of the exceptions set out in either SAMDev Policy MD7a or CS Policy CS5 and accordingly there would be conflict with these development plan policies. The Council's decision notice makes reference to CS Policy CS4. This policy relates to Community Hubs and Community Clusters. As Oldbury is not identified as either of these, I find that this policy is not relevant to the scheme before me.
11. The Framework is clear at paragraph 12 that the development plan is the starting point for decision making. Where proposed development conflicts with an up-to-date Local Plan, it should be refused unless other material considerations indicate otherwise.
12. The appellant submits that the Council is unable to demonstrate a 5 year supply of deliverable housing sites, and has calculated that only 4.97 years supply can be demonstrated. In such circumstances paragraph 49 of the Framework states that relevant policies for the supply of housing should not be

considered up-to-date. A number of planning decisions<sup>1</sup> to support the appellant's case have been brought to my attention. Whilst noting these decisions, they pre-date the adoption of the SAMDev. Furthermore, from my observations, these sites are located nearer to Bridgnorth than the appeal site and as such these examples are not directly comparable to the scheme before me and I afford them limited weight. Moreover, a Council's position on the supply of deliverable housing sites is constantly evolving, and I am required to assess the most up-to-date information presented.

13. The Council has provided me with a copy of its published Five Year Housing Land Supply Statement (28 August 2015), which indicates a 5.75 years supply of deliverable sites. An updated Housing Land Supply Calculation has also been submitted which adopted the methodology used within the Inspector's Report on the SAMDev. This report identifies that the Council can demonstrate a lower supply of deliverable sites at 5.53 years.
14. On the basis that the appellant has not provided me with detailed calculations to support his assertion, I have no reason to doubt the Council's published findings that it can demonstrate a 5 year supply of deliverable sites. As such its policies for the supply of housing (in this case Policy CS5 of the CS and Policy MD7a of the SAMDev) are not out-of-date.
15. Although acknowledging that the appeal site is within the countryside, the appellant asserts that the appeal site is in a sustainable location. The proposal would make a contribution to the Government's objective of boosting significantly the supply of housing.
16. The National Planning Policy Framework (the Framework) advises that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 55 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example where there are groups of smaller settlements, development in one village may support services in villages nearby.
17. Oldbury has a limited range of services and facilities. Mention is made of a church, village hall and nursing home. Bridgnorth is located approximately a mile away from the appeal site where there are a range of shops, services and facilities, including schools and a railway station.
18. It is likely that future occupiers of the new dwelling would support the church and village hall in Oldbury, and the services and facilities in Bridgnorth. However, and in the absence of substantive evidence to demonstrate otherwise, I find that the contribution one new dwelling would make to the vitality of the rural community would be unlikely to be discernible. Local jobs would be likely to be created when the dwelling was being constructed, however this would be a short term benefit.
19. The sale of the appellant's current home would be unlikely to have a significant effect on the local economy or community over and above the contribution the appellant and his family have made over time and continue to make. I therefore attach neutral weight to this matter in my overall Decision.

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<sup>1</sup> Refs: 14/03360/FULO; APP/L3245/A/13/2205748; APP/L3245/W/15/3032664

20. In light of the above, I find that the social and economic benefits of a new dwelling in this location, including the contribution that would be made to the supply of housing in the area, the contribution that would be made towards affordable housing provision and the employment that would be provided during the construction phase would be limited. Furthermore, these benefits would be likely to be so regardless of where the new house was constructed. Given the recent adoption of the SAMDev, these benefits could be achieved on sites within Community Hubs, Community Clusters, Market Towns, Key Centres or in Shrewsbury in accordance with the development strategy of the SAMDev and CS, rather than on sites that would conflict with this strategy, as would be the case with the appeal scheme.
21. Whilst not a significant distance away from the appeal site, Bridgnorth is located at the bottom of a hill relative to Oldbury. The walk or cycle into this town may well be attractive to some of the intended future occupiers of the new dwelling. I note that the appellant walks to Bridgnorth several times a week. However, the steep incline on the return journey is unlikely to be attractive to most, particularly if carrying shopping bags. My attention has not been brought to a bus service serving the village.
22. The route over the fields by the church to Bridgnorth is in part unsurfaced. It would be unlikely to be an attractive route into Bridgnorth and the schools, early in the morning when there was dew on the grass, in inclement weather or when it was dark, or for those pushing a pram or in a wheelchair. Similarly the route up Manor Farm Lane would be unlikely to prove an attractive option to pedestrians given that it is unlit, with no pavement along the stretch of road. I accept that cyclists may find this route convenient though, as it is a designated cycle route, although again, as the route is unlit it is likely that it would be unattractive during the hours of darkness or in inclement weather.
23. As a result of my findings above, I find that local services and facilities, apart from the village hall and church within the village would not be readily accessible from the appeal site. The new dwelling would result in an increased reliance on the private car to access even basic day to day services. It would be of limited appeal to those who did not enjoy that type of personal mobility. This would be in conflict with the social and environmental roles of sustainability. My attention has been drawn to a milkman delivering groceries and supermarket deliveries to the area. However, such deliveries are likely to be made by vehicles larger than a private car, and I have attached limited weight to this matter in my overall Decision.
24. The environmental role of sustainability includes using natural resources prudently and I note that the new dwelling would be sustainably constructed and would meet the current and future needs of the appellant. This matter weighs in favour of the proposal.
25. I do not share the Council's concern that the new dwelling would erode the intrinsic value of this part of the countryside, as the appeal site comprises part of the existing built up area of this part of the village. The site is physically and visually separate from the open, undeveloped fields on the opposite side of the road and is contained within the boundary of the appellant's garden. A new dwelling on the site would not be harmful to the character and appearance of this rural area. There would be no conflict with the protection and restoration

of the natural and built environment objectives of CS Policy CS6 or the local distinctiveness objective of CS Policy CS17 in this regard.

26. A further aspect of the environmental role of sustainability is contributing to protecting and enhancing the natural, built and historic environment. The appeal site is located within the Oldbury Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national policy on heritage assets, which includes conservation areas, is set out in the Framework. At paragraph 131, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness.
27. The Council considered that the proposal would not be harmful to the character or appearance of the conservation area. I have no reason to reach a contrary view in this respect. There would be sufficient separation between Oldbury House and the new dwelling, and whilst of a different design and form to other dwellings in the locality, it would be of a high quality design and would not be prominent in the streetscene or wider landscape. The character and appearance of the conservation area would be preserved. There would be no conflict with the environmental role of sustainability in this respect, or with the character and local distinctiveness objectives of CS Policies CS6 and CS17.
28. In light of the foregoing there would clearly be economic, social and environmental benefits associated with the proposal. However, there would also be conflict with each of these roles. The Framework makes it clear that the three roles of sustainability should not be undertaken in isolation, because they are mutually dependent.
29. The Council has drawn my attention to a number of appeal decisions it considers are relevant to the consideration of the appeal proposal, as set out in its statement. I was not provided with the individual circumstances of these cases and I am unable to ascertain if they are directly comparable to the scheme before me. I have therefore afforded them limited weight in my overall Decision. In any event, each application and appeal must be determined on its individual merits and this is the approach that I have taken.
30. I therefore conclude that the proposal would result in new market housing within the countryside in conflict with CS Policy CS5 and SAMDev Policy MD7a. The relationship of the appeal site to the nearest shops and services in Bridgnorth and the scheme's high dependency on the private car to serve even the basic day to day needs of the intended future occupiers of the new dwelling results in the proposal not comprising sustainable development. In reaching this conclusion, I have taken into account the appellant's personal circumstances and his desire to remain in the village. However these matters do not outweigh the conflict with up-to-date development plan policy or justify unsustainable development in this location.

#### *Contributions to Affordable Housing*

31. Policy CS11 of the CS requires, amongst other matters for new market housing to make an appropriate contribution to the provision of local needs affordable

housing. Although the appellant asserts that the new dwelling would be a self-build and no financial contribution towards affordable is necessary, I have not been provided with a mechanism to control this. Furthermore, he has submitted a completed UU with the appeal which would make provision for a financial contribution to be made towards affordable housing. I have therefore taken the UU into account in my Decision.

32. I am satisfied that such a contribution is reasonable and necessary to make the development acceptable and as such there would be no conflict with CS Policy CS11, the Supplementary Planning Document entitled 'Type and Affordability of Housing', or paragraph 204 of the Framework. However, the obligations contained within the UU do not outweigh the harm that I have identified.

### **Conclusion**

33. I have found that the proposal would not comprise sustainable development and that there would be conflict with local and national planning policies. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

*RC Kirby*

INSPECTOR