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# Appeal Decision

Site visit made on 5 July 2016

**by G Fort BA PGDip LLM MCD MRTPI**

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

Decision date: 17 August 2016

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**Appeal Ref: APP/L3245/W/16/3148172**

**Land adjacent to Quatford Wood House, Chapel Lane, Quatford, Bridgnorth, Shropshire WV15 6QH**

- 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 & Mrs Nigel Philp against the decision of Shropshire Council.
  - The application Ref 15/03606/FUL, dated 14 August 2015, was refused by notice dated 14 October 2015.
  - The development proposed is a dwelling.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The original application was determined before the Council's adoption of the *Shropshire Council: Site Allocations and Management of Development Plan* ("SAMDev") on 17 December 2015. This is now part of the statutory development plan for the area, and as such I have a duty to determine the appeal in accordance with the plan unless material considerations indicate otherwise. As the appellants' statement refers to the relevant policies of the SAMDev, I am satisfied that no parties will be prejudiced by my determination of the appeal on this basis.

## Main Issues

3. The appeal site is within the Green Belt. I thus consider the main issues to be, firstly, whether or not the proposal would constitute inappropriate development for the purposes of local and national planning policy; secondly, the proposal's effects on the openness of the Green Belt; thirdly, the proposal's effects on the character or appearance of Quatford Conservation Area; and fourthly, if the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.
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## Reasons

### *Whether or not inappropriate development*

4. Located in the West Midlands Green Belt, the appeal site is an open field abutting Chapel Lane, a single track highway that winds its way upwards from its junction with the A442. The field is bounded by a mixture of mature hedgerow and fencing to the roadside, and fencing elsewhere. It marks a significant break in development from the pinch point of the cottages and former agricultural buildings to its south west, which hug the lane more tightly, and the more sporadic and dispersed development on its other side. Due to the undulating nature of the site and its surroundings, deep views across it are visible to the west and to the wooded crest of the hill to the south, which impart an intensely verdant and rural character.
5. The appeal scheme seeks to develop a two-storey, gable-ended, pitched-roof dwelling to the corner of the appeal site closest to 6 Chapel Lane. The proposal would be slightly set back from the lane, and a new access would be developed to the side of the existing hedgerow. Additional mixed thorn hedges would be planted to its side and rear boundaries.
6. Policy S3 of the *Bridgnorth District Local Plan* (Adopted July 2006) ("the Local Plan") lists a number of exceptional circumstances where development is permissible in the Green Belt. Of those listed none are directly relevant to the appeal site.
7. Policy CS5 of the *Shropshire Local Development Framework: Core Strategy* (Adopted March 2011) ("the Core Strategy"), sets out local policy in respect of the Green Belt and suggests that development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. The Policy is permissive of limited infilling within the Green Belt within Community Hubs and Community Clusters as identified in the SamDev.
8. Policy MD6 of the SAMDev states that development proposed in the Green Belt must be able to demonstrate that it does not conflict with the purposes of the Green Belt. The Policy re-iterates the support for limited infill development in Community Hubs and Clusters identified within Policy MD3, and sympathetic to the character of the settlement.
9. The National Planning Policy Framework ("the Framework") sets the national context for Green Belt policy. At paragraph 79 it makes clear that the "Government attaches great importance to Green Belts" and that the "essential characteristics of Green Belts are their openness and their permanence". According to the Framework, the Green Belt serves five purposes, of most relevance to this case is its assistance in safeguarding the countryside from encroachment.
10. The construction of new buildings is generally inappropriate in the Green Belt; however, paragraph 89 of the Framework outlines some exceptions to this which include, amongst others, "limited infilling in villages".
11. I note that, for the purposes of local policy that the appeal site is outside of a Community Hub or Cluster, and thus limited infilling would be contrary to the policies of the development plan. However, I am also mindful of the appellants' concerns with the way that Community Hubs and Clusters have

been identified and I will return to this issue more substantively later in this decision. However, in the context of Green Belts, the appellants drew my attention to a recent judgement of the Court of Appeal in regard to limited infilling<sup>1</sup>. Whilst mindful of the distinguishing features of that case and the current appeal, I have been cognisant of the judgement in my assessment of the appeal scheme in the context of paragraph 89 of the Framework.

12. I have no reason to disagree with the previous appeal decision<sup>2</sup> in relation to the site, which concluded, due to the scale of the proposal, and adjacency to other development that it would constitute limited infilling. However, more determinative in this instance is whether or not Quatford could be defined as a village for the purpose of national planning policy. Again, in this respect, my observations onsite gave me little reason to disagree with the previous Inspector's conclusions in this regard. The wider area of Quatford, although having a modest village hall, a fish and chip shop, public house, roadside café and cattery has no definable centre and is instead more characteristic of dispersed roadside development, of which the appeal site is at the periphery. The settlement is surrounded by open fields and hills, separating it from the town of Bridgnorth and thus has an intensely rural character. Consequently, I do not consider that it constitutes a village for the purposes of the Framework. The presence of caravan sites in the wider environs of Quatford does little to alter my conclusions in this respect.
13. Accordingly, the proposal would not constitute limited infilling in a village and in these regards would conflict with Policy S3 of the Local Plan; Policy CS5 of the Core Strategy; and Policy MD6 of SAMDev. The proposal would also constitute inappropriate development for the purposes of the Framework. Paragraph 88 of the Framework makes clear that inappropriate development is harmful to the Green Belt, which should be given substantial weight in decision making.

#### *Openness*

14. The concept of openness in terms of Green Belt policy requires not merely an assessment of a proposal's visual effects, but also its spatial ones. In essence 'openness' means that land in the Green Belt should remain, on the whole, free from development. Although to some extent visually related to the adjacent dwellings, the proposal would introduce a significant amount of development, both in terms of the proposed dwelling and the access arrangements, on a field which is currently significantly free from development. The proposal would thus have significantly harmful effect on the openness of the site. Consequently, the appeal scheme would have a harmful effect on the Green Belt, interfering with its purpose of protecting the countryside from encroachment and its aim to keep land permanently open as outlined in the Framework.

#### *Character and Appearance*

15. The site is within the Quatford Conservation Area. At my visit, I saw that the appeal site is a considerable gap, between the generally more intimate arrangement of cottages and other buildings to its west, and the more sporadic

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<sup>1</sup> *Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council* [2015] EWCA Civ 195

<sup>2</sup> APP/L3245/A/14/2225478

and dispersed developments on its other side, which are set back further from Chapel Lane. The cottages to the west of the appeal site, due to their orientation and enclosure of the lane form a strong punctuation in the streetscene, emphasising this change. The appeal site thus marks a transition between these development patterns, and due to its elevation, affords views through to open countryside that contribute to the rural setting of the conservation area.

16. The historic and aesthetic significance of this part of the conservation area thus resides to a substantial degree in the contrasts between the tighter lane-side development, and the more spaciouly plotted buildings beyond this, all responding to the steep gradients of the verdant surrounding landscape. I am aware that the Conservation Area Appraisal for Quatford does not identify any distinctive relationship between open spaces and built form; however, this is not conclusive that such a relationship does not exist.
17. Due to its setback from the highway, the appeal scheme would introduce development that would not relate well to either the more intimate pattern of buildings to its west or the more sporadic arrangement further up the lane. Moreover, it would degrade the conservation area's spacious rural character and be harmful to its significance in this regard.
18. Whilst I note that the design of the scheme would pick up cues from vernacular detailing of properties elsewhere in the area, its siting would interfere with the historic development pattern of the lane and the open, spacious and rural setting of its constituent buildings and would thus have a harmful effect on the character and appearance of the conservation area. With regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 the development would neither preserve nor enhance the character or appearance of the conservation area. Moreover, in these regards the proposal would conflict with the objectives of CS6 and CS17 of the Core Strategy.
19. I had regard to the Framework; due to the small scale of the proposal in the context of the wider scale of the conservation area, I have assessed that the proposal would cause less than substantial harm to its significance. Less than substantial harm does not mean, however, that less than substantial weight should be attached to it in the overall planning balance. In line with paragraph 134, I will consider whether any public benefits would outweigh this harm below.

#### *Other Considerations*

20. The appeal site would be outside of a Community Hub or Cluster for the purposes of the development plan, and thus residential development here would be contrary to its provisions. I note the appellants' concerns with the way that Community Hubs and Clusters were identified as part of the SAMDev process, and have been mindful of the Inspector's Examination Report, which was submitted with the appeal statement<sup>3</sup>. I am also cognisant of the Court Judgement, and recent appeal decisions that were brought to my attention by the appellants<sup>4</sup>. I have had regard to this evidence, the development plan and the Framework in reaching my decision. Within this context, I am also mindful

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<sup>3</sup> PINS/L3245/429/9

<sup>4</sup> *Wychavon District Council v Secretary of State for Communities and Local Government & Crown House Developments Ltd* [2016] EWHC 592 (Admin); Appeal Decisions: APP/L3245/W/15/300117; APP/L3245/W/15/3134152; APP/L3245/W/16/3143403 and APP/L3245/W/16/3144703

of paragraph 55 of the Framework, which emphasises the promotion of sustainable development in rural areas.

21. For the purposes of the Framework, sustainable development has three dimensions: the environmental; the social; and the economic.
22. Taking the environmental dimension first, the site is located on a single track road that slopes upwards from the A442. In the immediate environs of the appeal site, and elsewhere in Quatford, there were few facilities to meet the day to day needs of residents. I note the appellants' suggestion that there is regular public transport, however, I saw no bus stops on Chapel Lane itself, and have not been provided with a timetable of services. Moreover, the nature of Chapel Lane would not be conducive for carrying bags of heavy shopping from any bus stops on the A442 up towards the appeal site. There is a footpath to Bridgnorth, however, the distance from the appeal site would militate against its use on a day-to-day basis. I am aware of the presence of the caravan sites and the catering firm in Quatford, however, employment opportunities arising from these are likely to be minimal. Consequently, I have no reason to doubt that the occupiers of the appeal scheme would be heavily reliant on the private car for the majority of journeys. Whilst I am aware that the local area is serviced by deliveries from supermarkets I am not persuaded that such provision would be any more environmentally sustainable than car journeys to serve the same purpose by the future occupiers of the scheme. Consequently, this is a matter that would only carry very limited weight.
23. The appellants supplied a copy of the Department for Transport's *National Travel Survey : Average Trip Length by Trip Purpose 2013* table. I presume, and have not been directed otherwise, that the figures in the table refer to travels to and from the destination mentioned and are not merely one way trips. I have been supplied with Quatford's distance from Bridgnorth, but am unaware whether this is a distance as the crow flies or by road. Thus in the absence of comparative data relating to the site I am not persuaded that trips would be substantially less than the averages within this table. Consequently, I can give only limited weight to the data in this table in my assessment of the appeal scheme.
24. The Design and Access Statement suggests that the proposal would be built to level 3 of the Code for Sustainable Homes. However, such a level of environmental sustainability is not unusual in modern residential development, and would merely mitigate some of the environmental effects of the scheme rather than providing a positive benefit. Accordingly it is a matter that would only attract very limited weight in the overall planning balance.
25. Moving to the social aspect, the proposal would deliver modest social benefits through delivery of one additional dwelling, and potential contributions to the Community Infrastructure Levy. Additional residents could also help to maintain what limited services there are in Quatford, again, given the size of the proposal, this would likely be to a limited degree. However, these would be tempered to a significant degree by the appeal site's remoteness from services. The width and gradient of the lane would also serve to limit the accessibility of the proposal to people with mobility issues. Consequently, I do not consider that the site would be socially sustainable to any substantial degree. I therefore attach only limited weight to this matter.

26. In terms of the economic aspect, undoubtedly some benefits would flow from the proposed dwelling's construction. However, these benefits accrue wherever a new dwelling is built and would fade away after a comparatively short period of time. Residents of the proposed dwelling could increase spending to a modest degree in local businesses. However, the modest scale of these benefits would attract only limited weight in the overall planning balance.
27. Whilst mindful of the appellants' suggestion that some of the windfall housing supply to meet the needs of the County could come forward on Green Belt sites the proposal is for only one dwelling and thus would only make a very limited contribution to both the SAMDev's objectives in this respect and the Framework's objective of significantly boosting housing supply. Consequently, this is a matter to which I attach only limited weight.
28. The proposal could help the appellants to downsize within Quatford. This may be the case, but there is no reason that existing housing in the surrounding area could not also offer that opportunity. In any event this would again be a benefit to which I attach only limited weight.
29. I was supplied with a copy of a unilateral planning obligation to secure affordable housing contributions should development be forthcoming. The Minister for Housing and Planning issued a Written Ministerial Statement (WMS) on 28 November 2014, and subsequent alterations to the Government's Planning Practice Guidance (PPG) that outlined the circumstances when affordable housing contributions should not be sought from small-scale developments. The WMS states that "for sites of 10-units or less... affordable housing and tariff style contributions should not be sought".
30. At the time of the original planning decision in regards to this scheme the WMS was subject to a High Court judgement<sup>5</sup> and declaration Order, which confirmed that the policies within the WMS should not be given weight as material considerations in planning decisions.
31. However, the Secretary of State challenged the High Court's decision in the Court of Appeal, the judgement<sup>6</sup> of which, issued on 11 May 2016, overturned the previous judgement. Consequently, the WMS is once again a material consideration. Given that this is the most up to date expression of national policy on the matter it is a consideration to which I attach significant weight, and thus I do not consider that the appeal scheme would be required to make provision for affordable housing contributions. Consequently, I can attach only neutral weight to the provisions of the unilateral undertaking in this case.

### *Green Belt Balance*

32. The appeal proposal would constitute inappropriate development, and be harmful to the openness of the Green Belt; its purpose to safeguard the open countryside from encroachment; and its aim to keep land permanently open. The proposal would also cause less than substantial harm to the character of the conservation area. Paragraph 88 makes it clear that substantial weight should be given to any harm to the Green Belt and any other harm: "Very special circumstances' will not exist unless the potential harm to the Green Belt

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<sup>5</sup> *West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government* CO/76/2015 [2015] EWHC 2222 (Admin)

<sup>6</sup> *Secretary of State for Communities and Local Government v West Berkshire District Council* [2016] EWCA Civ 441)

by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.

33. This is a high hurdle for a proposal to overcome, and it is clear that the benefits adduced for the scheme either individually or cumulatively would not clearly outweigh the substantial weight I have to give to the Green Belt harms. Neither would they constitute the public benefits necessary to justify the less than substantial harm to the significance of the conservation area. Consequently, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Thus the very special circumstances necessary to justify the development do not exist. In arriving at this conclusion I have had regard to the Court of Appeal judgement supplied to me by the appellants<sup>7</sup>, which suggests how policies that restrict the supply of housing, including Green Belt policy, should be considered in the planning balance.
34. Consequently, the proposal would be contrary to the Framework, and Policies CS3, CS5, CS6, CS17 of the Core Strategy; MD1, MD6, MD7 and MD12 of SAMDev; and S3 of the Local Plan.

#### **Other Matter**

35. I am aware of the appellants’ concern that positive comments of consultees in a previous application were attached no weight by the Local Planning Authority, whereas negative comments by these same consultees were given weight in the application that led to the current appeal. However, the relative weight given to considerations is a matter for the decision-taker. The proposal’s siting is a material change in this scheme that differentiates it from the previous case. Furthermore, I have reached a decision on the appeal based on the evidence put before me including the comments of the consultees in relation to this case.

#### **Conclusion**

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

*G J Fort*

INSPECTOR

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<sup>7</sup> *Suffolk Coastal DC V Hopkins Homes Limited and Secretary of State for Communities and Local Government; Richborough Estates Partnership LLP v Cheshire East Borough Council and Secretary of State for Communities and Local Government* [2016] EWCA Civ 168