

## Appeal Decision

Site visit made on 3 October 2016

**by A J Mageean BA (Hons) BPI PhD MRTPI**

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

**Decision date: 11<sup>th</sup> October 2016**

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**Appeal Ref: APP/L3245/W/16/3150104**

**The Old Rectory, Warrant Road, Stoke upon Tern, Shropshire TF9 2DY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Peter Briggs against the decision of Shropshire Council.
  - The application Ref 15/00685/OUT, dated 12 February 2015, was refused by notice dated 13 November 2015.
  - The development proposed is outline application (with access) for five dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters except access reserved for consideration at a later stage. A drawing showing an indicative site layout was submitted with the application and I have had regard to this in determining this appeal.
  3. During the course of the application the site area was reduced. The current area is as set out in Site Plan SA16573/sk.02 Rev B. I have determined the appeal on this basis.
  4. The development plan for the area includes the Council's Core Strategy (Core Strategy) adopted in 2011, and the Sites Allocations and Management of Development Plan (SAMDev) adopted in December 2015 following an examination into its soundness. It is clear from the appellant's statement that he was aware of the status of this document and that both parties have had the opportunity to address any implications arising from its adoption. I have therefore determined the appeal on the basis of the national and local policies adopted at the present time.
  5. The site address refers to the location of the site being 'Stoke upon Tern'. I understand that 'Stoke upon Tern' is the name of the wider civil parish area and that 'Stoke on Tern' is the correct reference for this settlement. Whilst there is some confusion between these terms in the appeal documentation, I have referred to 'Stoke on Tern' as the village and 'Stoke upon Tern' as the wider parish area in my decision.
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## Main Issue

6. The main issue in this case is whether the proposed development would provide a suitable site for housing with particular reference to the settlement strategy for the area, access to services and the effect on character and appearance.

## Reasons

7. The appeal site is located adjacent to a large detached property known as The Old Rectory and is accessed off Warrant Road via a private driveway. The site is part of the grounds of Stoke Court, which contains three dwellings on its eastern side: The Old Rectory, The Mews and The Cloisters. The site is located on the edge of the village of Stoke on Tern, which comprises an informal grouping of around 40 dwellings, most of which are in the small estate of Langley Dale to the east. The appeal site itself is an irregularly shaped landscaped area with a brook running to the south. It is well screened to the south and east by mature trees and the existing buildings, though to the north and west, whilst there are some mature trees, it has a more open appearance. There is open countryside to the north, west and south. The appeal proposal would place five open market dwellings, three detached and two semi-detached, within this area.
8. The Core Strategy sets out a framework which seeks to ensure that rural communities will become more sustainable by focusing development and investment in Community Hubs and Community Clusters, defined at Policy CS4. The villages of Stoke Heath, located to the north of the appeal site, and Hodnet, located to the west of the appeal site, are both identified as Community Hubs with specific settlement policies for each set out in the SAMdev.
9. The appellant argues at one point that the appeal village is part of the Stoke Heath Community Hub, noting that a development site for 20-25 dwellings is identified which is located further along Warrant Road at Dutton Close, just less than 2km from the appeal site. Nonetheless, it is clear to me that Stoke on Tern is not part of this settlement. Furthermore, it has not been identified as part of a Community Cluster, defined as being comprised of two or more settlements, where the combined settlements offer a range of services contributing to a sustainable community. Therefore, as acknowledged by the appellant in his final comments, the appeal site is on land designated as countryside.
10. However, the appellant also argues that Policy CS4 is relevant in this case as bullet point 3 refers to rural communities becoming more sustainable by "*ensuring that market housing makes sufficient contribution to improving local sustainability through a suitable mix of housing*". As this point makes no reference to Community Hubs or Community Clusters it is therefore suggested that this could be interpreted as applying to all of the rural area, including countryside. However, bullet point 3 follows bullet point 1 which states that sustainability will be achieved by "*focusing private and public investment in the rural area into Community Hubs and Community Clusters, and not allowing development outside these settlements unless it meets policy CS5*". My view is that bullet point 1 sets the context for bullet point 3 and it would be inappropriate to follow the broader interpretation suggested.

11. The parties also make reference to SAMDev Policy MD3 which states that in addition to supporting the development of the allocated housing sites set out in settlement policies, planning permission will also be granted for other sustainable housing development on 'windfall' sites, both within settlements and in the countryside, including both brownfield and, where sustainable, greenfield sites having regard to policies in the Local Plan. The Council further clarifies in relation to MD3 that the only circumstance in which the Local Plan may provide support to proposals for market housing in the countryside outside the settlement boundary is where a settlement guideline figure is unlikely to be met within the plan period, not just anywhere<sup>1</sup>. I note the reference by an objector to the significant recent approvals, above the local target for development in Stoke Heath, suggesting that this circumstance is unlikely to transpire in this area.
12. Further, the policies referred to in MD3 include Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev which seek to strictly control development in the countryside. Policy CS5 emphasises sustainability and rural rebalance, supporting development which improves the sustainability of rural settlements by bringing economic and community benefits. Policy MD7a also refers to the strict control over new market housing. Both Policies refer to the need for new housing in countryside areas to focus on that which is needed to house essential rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings. The appeal scheme does not meet these criteria.
13. I accept the appellant's point that Policy MD7a was not mentioned in the Council's decision notice however, as previously noted, the SAMDev was adopted after the decision on this application. I also accept that the main purpose of this Policy is to provide guidance in relation to single plot exception sites, conversions, rural workers dwellings, replacement dwellings and holiday lets. However, its reference to the tight control over new market housing is relevant in this case.
14. The appellant also points to the fact that Policy CS5 enables a broader interpretation of what constitutes appropriate development in the countryside. In this respect this Policy states that development will be strictly controlled "*in accordance with national planning policies protecting the countryside*". Further, this Policy states that "*development on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local community benefits*". Particular reference is then made to the types of development which fulfil these criteria, including dwellings to house agricultural, forestry or other essential countryside workers.
15. I accept that the wording of this Policy suggests that the list of appropriate types of development is not exhaustive, and that other development types which meet these criteria could be acceptable. In this respect the appellant suggests that the appeal scheme is an example of a development which would improve the sustainability of rural communities by bringing economic and community benefits.
16. The Shropshire settlement strategy sets out the framework for development which supports rural communities. In this respect a development of open

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<sup>1</sup> SAMDev Plan Policy MD3: Delivery of Housing Development: Overview

market housing located outside the established settlement strategy for this area would not in itself bring specific economic or community benefits in the same way that a development of exception or affordable housing would. The appellant refers to the appeal case at West Felton<sup>2</sup>, in which the Inspector applied Policy CS5 to an edge of settlement site which was found to be sustainable. Whilst I do not have the full details of this case before me I note that it was determined prior to the adoption of the SAMDev.

17. In this context it is relevant to consider the suitability of the appeal site for a development of five dwellings in terms of its location. This includes the availability of services locally and also access to services and employment elsewhere via public transport, cycling and walking. As noted above, this is a small settlement of approximately 40 dwellings and there are very few services available in the village. This is limited to a church, a village hall and a small play area on Langley Dale. The nearest primary school is in Stoke Heath which the appellant states is less than a mile away. I have been made aware, without full details, that there is a bus service which connects Stoke on Tern to Stoke Heath and also Wistanswick which in addition to the school provides a public house, sports centre, service station and café/takeaway. The village of Hodnet with a larger range of facilities is located around 1.5 miles to the west of Stoke on Tern. The Council also acknowledges that there may be potential employment opportunities in these other settlements. However, realistically, development in this location would inevitably lead to regular travel outside the village, primarily by private car, to access a more complete range of services and facilities.
18. The aspect of Core Strategy Policy CS6 relevant to this outline application is the requirement for "*proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and the use of public transport can be maximised and the need for car based travel reduced*". I accept that the access point to the site would be reasonable, and that this scheme would not generate significant levels of traffic *per se*. Nevertheless when considered in the context of this small rural community and the nature of surrounding narrow country lanes, this development would result in a moderate increase in the use of private cars in this area, with few opportunities for other more sustainable transport modes.
19. The appellant refers to paragraph 29 of the Framework which states that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. It is also relevant to note the Council's view that due to the dispersed nature of development in this area most rural settlements require access to other areas by private vehicles. Indeed, this principle is acknowledged within the Council's development plan in which the concept of Community Clusters is based on a number of small settlements within a defined area sharing services. In the present case, whilst evidence of opportunities for more sustainable transport modes is limited, I acknowledge that this fact does not in itself preclude this site from consideration for development. However, this site has not been identified as part of a Community Cluster of supportive settlements.
20. I have also looked at the key elements of sustainability as set out in the National Planning Policy Framework (the Framework) at paragraph 7. I accept

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<sup>2</sup> APP/L3245/W/15/3003171

that this development would contribute to the expansion of the local population and thereby the vibrancy of the community. In this respect I note the evidence submitted by the appellant relating to the range of social and cultural activities in the parish area of Stoke upon Tern, including the creation of a Neighbourhood Plan area across the parish in February 2015. However, whilst this demonstrates that there is a range of activity across the parish, including in a number of settlements designated as Community Hubs, there is little specific reference to activities in this village.

21. Looking at economic benefits, I accept that there would be short term economic gain through the provision of construction jobs. There would also be some additional revenue generated for the Parish Council and the contribution of a CIL payment towards local infrastructure. The Council also notes the potential benefits in terms of supporting activities in other nearby settlements.
22. Turning to environmental considerations, it is clear that this site is associated with the grounds of Stoke Court. Whilst the parts of the site to the north west and immediately to the west of The Old Rectory are at present clearly part of the garden area of this substantial dwelling, the south western portion is less formal in appearance with a fence running across the site at this point. Nonetheless I accept that these grounds are delineated as being associated with the existing group of Stoke Court dwellings. As such, and in line with a recent court judgement, this is not excluded from the definition of previously developed land.<sup>3</sup> I therefore accept that the encouragement given in paragraph 17 of the Framework to the re-use of brownfield land is a relevant consideration in this case.
23. However, notwithstanding the delineation of the Stoke Court area, and the appellant's statement that as this is regarded as garden land it will not extend the settlement boundary, my view is that the less formal appearance of the south western portion of these grounds transitions into the wider countryside beyond. In this sense I consider that the development would result in some extension to the settlement boundary. Also, whilst there are some mature trees running along the north western boundary, there are also some significant gaps between the trees meaning that this development would, in part at least, be visible in the surrounding countryside.
24. I note that a pre-application enquiry, relating to the proposed subdivision of The Old Rectory and four new build dwellings on this site, resulted in a positive response in September 2014<sup>4</sup>. At this time this scheme was considered to represent sustainable development in a sustainable location, with no significant adverse impacts to outweigh the benefits. However, this advice was given prior to the adoption of the SAMDev which now provides greater certainty in terms of the final wording of policies and the weight which can be attached to it in decision making.
25. The appellant makes reference to the fact that the appeal site is closer to a wider range of facilities and services than the development of 20-25 dwellings at Dutton Close. Nonetheless it remains that the Dutton Close site is part of the Stoke Heath Community Hub and is allocated for development within the SAMDev, part of the adopted development plan.

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<sup>3</sup> Dartford BC v SSCLG [2016] EWHC 635 (Admin)

<sup>4</sup> Ref PREAPP/14/00487

26. I also note the appellant's reference to changes to the Framework being expected shortly, and the suggestion that this will give greater support to the development of brownfield sites. However such changes have not yet been published and therefore do not carry any weight in this case.
27. Whilst I have noted that the site lies within an area for which a Neighbourhood Plan is under preparation, this is at an early stage of development. The Parish Council objected to the proposal on the basis of SAMDev policy.
28. In drawing the threads of this discussion together, I have sought to examine this proposal in relation to local policy which seeks to achieve 'rural rebalance' by supporting the sustainable development of rural settlements. This reflects national policy, as set out in the Framework, which states that housing should be located where it will enhance or maintain the vitality of rural communities, avoiding isolated new homes in the countryside.<sup>5</sup> I have accepted that it is not always possible to provide sustainable transport modes within rural areas, however the fact that this site is not located within a Community Hub or Community Cluster and must be regarded as open countryside is significant in this case. I have also acknowledged that this is technically brownfield land, but noted the particular circumstances of this relatively isolated site and the result that this scheme would at least in part extend the settlement boundary. Furthermore, this proposal for five units of open market housing would not provide affordable housing nor would it meet an identified local need.
29. Therefore, on balance, I conclude on this matter that the proposal would not provide a suitable site for housing with particular reference to its location. It would therefore not comply with the Core Strategy Policies CS4, CS5 and CS6, or SAMDev policies MD3 and MD7a.

### **Other Matters**

30. The appellant states that there have been persistent shortfalls in housing delivery in this area to date, and notes the reliance on a significant increase in delivery over the rest of the plan period. The appellant also makes reference to the Council's housing requirement as set out in the Core Strategy and SAMDev, noting a heavy reliance on land in rural areas outside settlements.
31. In the North East spatial zone the planned housing delivery of windfall development within settlements is quoted as being 593 dwellings and windfall development in rural areas is quoted as being 902 dwellings. It is also noted that over the whole Council area the planned development in the rural area of 5,985 was showing 2,217 completions and 1,224 extant permissions of dwellings for the period 2006-2015. This accounts for well over half of planned rural development. I accept the appellant's point that the SAMDev Plan Inspector modified Policy MD3 to clarify that sustainable development would be permitted. Nonetheless, as the plan period runs to 2026 I consider that at this stage it would be premature to judge whether or not these figures are likely to be achieved.
32. The appellant also makes reference to a recent appeal decision which has challenged the basis of the Council's housing policy<sup>6</sup>. In this case the Inspector allowed 68 houses on land at Teal Drive, Ellesmere, Shropshire in May 2016. On this basis the appellant maintains that, although the Council are challenging

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<sup>5</sup> Paragraph 55.

<sup>6</sup> APP/L3245/W/15/3067596

the Teal Drive decision and the Secretary of State has concurred that the decision should be quashed, until such time as the Courts make a ruling on this case this decision stands. The appellant argues that the Council's policies for the supply of housing should be considered out-of-date and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

33. However, even if I accepted the appellant's case and found that the Council does not have a five year housing land supply, this would not inevitably lead to the appeal being allowed. If the Council did not have a five year supply then the net addition of five houses which could be delivered reasonably quickly would carry significant weight in favour of the proposal. However, I consider that the evidence I have examined in relation to sustainability is such that the environmental concerns generated by development in this countryside location significantly and demonstrably outweigh the modest social and economic benefits of five new units of open market residential accommodation when assessed against the policies in the Framework taken as a whole.

### **Conclusion**

34. For the reasons set out above, and taking into consideration all other matters raised, I conclude that the appeal should fail.

*AJ Mageean*

INSPECTOR