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# Appeal Decision

Site visit made on 8 September 2016

**by Nicola Gulley MA MRTPI**

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

**Decision date: 9 December 2016**

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**Appeal Ref: APP/L3245/W/16/3151475**

**Land South of The Parklands, Cockshutt, Shrewsbury, Shropshire**

- 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 G.W. Reeves against the decision of Shropshire Council.
  - The application Ref 15/04631/OUT, dated 16 October 2015, was refused by notice dated 9 December 2015.
  - The development proposed is residential development to include means of access.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application is made in outline with all matters except access reserved.

## Procedural Matters

3. Since the determination of the planning application, the Shropshire Council Site Allocations and Management Plan (SAMDev) (2015) has been adopted. This plan, along with the adopted Shropshire Local Development Framework: Core Strategy (CS) (2011), are now the developments plan for the area and I will determine this appeal on this basis.

## Main Issues

4. The main issues are whether the proposed development conflicts with national and local policies designed to protect the countryside and promote sustainable development and its effect on travel patterns, biodiversity and the provision for affordable housing.

## Reasons

### *Site and surroundings*

5. The appeal site comprises a roughly rectangular area of land some 0.49 hectares in size which forms part of a much larger agricultural field located outside the defined settlement boundary in the countryside on the fringe of Cockshutt. The site is enclosed on three sides by a combination of woodland trees, hedgerows and fencing. At the time of my site visit the shared boundary with the agricultural field had not been delineated. Adjacent to the site is the
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small modern residential estate of The Parklands which provide vehicular and pedestrian links to the settlement.

*Conflicts with National and Local Policies*

6. The policy context for the supply and distribution of new housing in Shropshire is provided by the CS and the SAMDev. CS Policy CS1 outlines a requirement for 27,500 new dwellings to be constructed over the plan period, of which: 25% of the new dwellings are to be delivered in Shrewsbury; 40% in market Towns and Key Centres; and, in order to rebalance local needs and improve the sustainability of local centres, 35% in Community Hubs and Community Clusters; outside these areas new development will primarily be for economic diversification and to meet the needs of local communities for affordable housing. This approach is supported by SAMDev Policy M1 which provides the geographical definition for these areas and, in doing so, identifies Cockshutt as a Community Hub. The combination of CS Policy CS5 and SAMDev Policies MD3 and MD7(a) provide the framework for managing new residential development in the countryside and require that, unless it can be demonstrated that housing guidelines would not be achieved, only proposals for rural diversification or affordable housing would be permitted. The policy context for new residential development in Cockshutt is provided by SAMDev Policy S8.2(i) which identifies a housing guideline figure of 50 new dwellings to be provided on sites within the defined settlement boundary over the plan period.
7. The National Planning Policy Framework (NPPF) requires local planning authorities to identify a 5 year supply of deliverable housing sites, plus a suitable additional buffer of 5 or 20% to provide choice and competition in the market. The Council contends that it has a 5.97 year housing land supply including a 20% buffer<sup>1</sup>. The appellant does not directly dispute this figure, but has drawn my attention to a recent appeal decision in respect of Teal Drive, Ellesmere<sup>2</sup> within Shropshire Council's area, issued on the 16 May 2016, which found that the Council could not demonstrate that it has a five year supply and that paragraph 14 of the Framework was therefore engaged.
8. The Inspector's findings in that case differ from those of other Inspectors who have determined recent appeals in the Council's area, and have for the most part found that a 5 year housing land supply exists. Further, the Teal Drive decision has been quashed by the High Court<sup>3</sup>. As a consequence, I consider that no weight can be afforded to this decision.
9. Furthermore, I note that no substantive evidence has been presented by the appellant to dispute the Council's claim or to demonstrate that the supply of housing land is less than 5 years. As a consequence, and in accordance with paragraph 49 of the NPPF, I consider that the LP policies that relate to the supply of housing, which includes CS Policies CS1 and CS5 and SAMDev Policies MD1, MD3, MD7 (a) and S8.2(i), are not out of date.
10. With regard to the delivery of new housing in Cockshutt, the Council contends that progress is being made in delivering development on the allocated sites<sup>4</sup>

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<sup>1</sup> Shropshire Council 5 Year Housing Land Supply Statement : Data to 31 March 2016 (August 2016)

<sup>2</sup> Appeal Reference APP/L3245/W/15/3067596

<sup>3</sup> Shropshire Council V SSCLG EWHC 2733

<sup>4</sup> Planning permission has been granted for the development of site reference CO005, CO023 and CO002a (subject to a S106 agreement) and an application is pending on site reference CO002b.

and that there is no evidence to suggest that the provision of new housing would fall below the housing guideline figure contained in SAMDev Policy S8.2(i). The evidence presented by the Council in respect of housing delivery indicates that all of the allocated sites are likely to have planning permission in the first half of the plan period. Moreover, the Council maintains that the proposed development would represent an unjustified encroachment beyond the defined settlement boundary which would have a detrimental affect on the rural character and appearance of the site. In support of this assertion the Council has drawn my attention to a number of recent appeal decisions in which the individual circumstances of the case have led inspectors to conclude that development would not be acceptable because insufficient evidence has been presented to demonstrate that the housing requirements would not be met.

11. The appellant has presented no substantive evidence to demonstrate that the housing guidelines in Cockshutt will not be met, but contends that the proposed development would: assist in meeting the Council's housing requirements; be sustainable development; deliver a good mix of quality homes, including affordable housing; and that no unacceptable adverse environmental impacts or other harm would result to outweigh the benefits of the scheme.
12. In light of the evidence presented, it appears to me that, at the present time, there is no reason to question the Council's assertion that sufficient housing development would be delivered over the plan period to meet the housing guideline outlined in SAMDev Policy S8.2(i) or to justify the extension of the settlement into the countryside. As such I consider that the proposed development would represent an unjustified incursion of built development into the countryside which is contrary CS Policies CS1 and CS5 and SAMDev Policies MD1, MD7(a) and S8.2(i).

#### *Travel Patterns*

13. CS Policy CS6 requires that proposals that are 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. In this instance, the proposed vehicular and pedestrian access to the development would be provided by a short access road leading directly from the adjoining residential estate.
14. Whilst I note the Council's concerns, I consider that the close proximity of the adjoining estate, which has a segregated footpath that leads to the village, coupled with the small scale of the development would ensure that the proposal would not materially alter the existing travel patterns, have a detrimental impact on pedestrian safety or result in the significant generation of additional traffic.. As such I consider that the proposed development would comply with the objectives CS Policy CS6.

#### *Biodiversity*

15. CS Policy CS17 and SAMDev Policy MD12 seeks to ensure that proposals for new development, conserve, enhance, connect restore or recreate the natural assets of the area. This approach is supported by guidance contained in the NPPF.

16. In support of the proposal the appellant has submitted an environmental assessment which considers the impact of the proposal on the appeal site and surrounding land. The findings of the assessment indicate the potential for 2 small pools located within 30 metres and 140 metres of the appeal site to be breeding grounds for great crested newts (GCN) but that the clearance of the appeal site would, because of the scale of the development and the presence of extensive surrounding habitat, only have a minor to low impact on the GCN. The assessment recommends that in order to mitigate the impact of development a compensatory habitat should be provided within 50 to 100 metres of the breeding ponds and that a plan for ecological management should be prepared and implemented. The approach to ecological mitigation and management outlined in the assessment was supported by the Council's ecologist.
17. However, at the time the application was determine no agreement had been reached with the appellant about the requirement for an off-site GCN mitigation area and management plan. A signed unilateral undertaking dated 29 July 2016 has subsequently been submitted by the appellant that makes appropriate provision for the mitigation area but not the preparation and implementation of a management plan. Notwithstanding this, I consider that this is a matter that could be addressed by the imposition of a condition. In my opinion the submission of a unilateral undertaking together with a condition requiring a management plan would ensure that the development would not have a harmful effect on the GCN population and, as a consequence, the proposal would comply with the objectives of CS Policy CS17, SAMDev Policy MD12 and the NPPF.

#### *Affordable housing*

18. CS Policy CS11 requires the provision of 33% affordable houses on qualifying sites of 5 dwellings or more. As with the biodiversity issue, at the time that application was determine no agreement had been reached with the appellant about the requirement for the provision of affordable housing. However, a signed unilateral undertaking has subsequently been submitted by the appellant that exceeds the requirements of CS Policy CS11 and makes provision for 2 no. affordable dwellings to be constructed on the site. As such, I consider the issue has been appropriately addressed and the proposed development would comply with the objectives of CS Policy CS11.

#### **Other Matters**

19. The appellant has drawn my attention to a site on which planning permission, reference for a single dwelling has recently been granted (16/01096/OUT). Based on the evidence presented and my observations at the recent site visit, the site, which is located to the rear of The Crown, Shrewsbury Road, Cockshutt, is previously developed land and located within the boundary of the settlement. As a result I do not consider that this development directly parallels the circumstances of this appeal. I have in any case, determined the appeal before me on its own merits.

#### **Overall Planning Balance and Conclusions**

20. The NPPF, paragraph 14, outlines a presumption in favour of sustainable development. In doing so the paragraph makes clear that when taking decisions: proposals that accord with the development plan should be

approved without delay; and where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits of development, when assessed against the policies in the framework taken as a whole. In the case of proposals for new housing development, the NPPF paragraph 49 makes clear that where the relevant local planning authority is unable demonstrate a 5 year supply including a buffer, of deliverable housing sites then applications should be considered in the context of sustainable development.

21. In this instance, I am satisfied that the Council has demonstrated that it has a 5.97 year housing land supply. Therefore, in accordance with paragraph 49, I am satisfied that the Council's policies relating to the supply of housing may be considered to be up-to-date and when assessing proposals for sustainable development and can be afforded full weight.
22. The definition of sustainable development contained in the NPPF provides for the consideration of social, economic and environmental factors. I recognise that the construction and occupation of new housing in Cockshutt would have social and economic benefits for the settlement particularly through the creation of additional jobs, by providing support for local facilities and services and the provision of affordable homes to meet the defined local need. Furthermore, I am satisfied that the development would not have an adverse impact on environmental matters and that issues in relation to GCN can be effectively mitigated. However, given the full weight that must be afforded to the CS and the SAMDev these benefits do not outweigh the strong policy objections which I have identified.
23. In light of this, I consider that the proposed development would result in the unjustified encroachment of built development into the countryside. As such I consider the proposals would be contrary to the objectives of CS Policies CS1 and CS5 and SAMDev Policies MD1, MD7(a) and S8.2(i).
24. For these reasons, and taking all matters raised into account, I conclude that the appeal should be dismissed.

*Nicola Gulley*  
INSPECTOR