

## Appeal Decision

Hearing held on 15 June 2016 and 20 September 2016

Site visit made on 15 June 2016

**by I Radcliffe BSc(Hons) MCIEH DMS**

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

**Decision date: 13<sup>th</sup> March 2017**

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**Appeal Ref: APP/L3245/W/16/3141633**

**Land north of Aston Road, Wem, Shropshire**

- 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 Messers K & P Broomhall against the decision of Shropshire Council.
  - The application Ref 14/03428/OUT, dated 25 July 2014, was refused by notice dated 5 October 2015.
  - The development proposed is the erection of 75 dwellings to include means of access.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.
3. After the application was made, in discussion with the Council, the appellant agreed to reduce the size of the site and the number of houses proposed from 75 to 50. The proposed access onto Church Lane was also deleted leaving access to be provided from Aston Road. As a result, the description of the development that appears on the decision notice is 'the erection of 50 dwellings (to include access)'. I am content that this amended description adequately describes the proposal and I shall use it in the determination of this appeal.
4. Following the closure of the hearing on 15 June 2016 the Council forwarded a copy of its Full Objectively Assessed Housing Need Report published on 4 July. The hearing was re-opened on 20 September 2016 to consider this document.

### Main Issues

5. The main issues in this appeal are;
    - whether the location of the proposed development would be in accordance with the development plan;
    - the effect of the proposed development on the character and appearance of the area;
    - the effect of the proposed development on agricultural land;
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- the accessibility of services and effect of the proposal on the free flow of traffic; and,
- the contribution that the proposal would make to housing land supply and the social, economic and environmental benefits that would arise from the proposal.

## **Reasons**

### *Location of development*

6. Applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework ('the Framework') is an important material consideration. A core planning principle of the Framework is that decision taking should be genuinely plan led, empowering local people to shape their surroundings.
7. The development plan for the area consists of the Shropshire Core Strategy (adopted in 2011) and the Shropshire Site Allocations and Management of Development (SAMDev) Plan (adopted in 2015).
8. In order to further sustainability objectives, and in the interests of protecting the countryside, policy CS1 of the Core Strategy sets a development strategy for Shropshire. Its settlement hierarchy has Shrewsbury as the single largest settlement at the top with market towns, such as Wem, and other key centres, in the second tier. In the third tier are community hubs and clusters in rural areas. Policy CS3 explains that market towns, such as Wem, provide services and facilities to their rural hinterlands. As a result, the policy explains they provide a focus for development within settlement development boundaries and on allocated sites. Similarly, policy CS4 supports new development in community hubs and clusters. Outside of such settlements is the open countryside where new development is strictly controlled by policy CS5 of the Core Strategy.
9. The appeal site is located adjacent to, but outside, the settlement development boundary for Wem and is not an allocated site. As a consequence, for planning policy purposes it lies within the open countryside where policy CS5 of the Core Strategy strictly controls development. Policy MD.7a of the SAMDev Plan details how, in practice, policy CS5 is applied to housing. New market housing outside of Shrewsbury, the market towns, key centres and community hubs and clusters is strictly controlled by this policy. Suitably designed and located exception site dwellings and residential conversions are considered to be acceptable where they meet evidenced local housing needs and other relevant policy requirements.
10. As part of detailing how the Core Strategy will be delivered, the SAMDev Plan also contains settlement housing guidelines. These guidelines reflect detailed consideration by the Council and the community on what level of development is sustainable and appropriate. In relation to policy S17 of the SAMDev, which relates to Wem, it is clear given the amount of housing that has been built and with the sites allocated for housing, that this guideline of approximately 500 dwellings, halfway through the plan period, has almost been met. In such circumstances, it is evident to me that, read as a whole, policy MD3 of the SAMDev which relates to housing delivery only supports further housing within the settlement development boundary and not outside it.

11. Based upon the submitted evidence, at the halfway point through the plan period of the Core Strategy, in terms of housing completions and commitments, the Council is on target to achieve the development plan's housing requirement. In the rural areas, only half the amount of housing that the Core Strategy seeks to deliver is provided for in the settlement guidelines of the SAMDev Plan. The view of the appellants is that this means that the settlement guideline figures will have to be exceeded and windfall development allowed on sites such as the appeal site. However, community hubs and clusters form an important tier of rural settlements where the development plan supports new rural housing. Most new housing in such settlements will occur on unallocated sites of five or fewer dwellings and so will constitute windfall development. The SAMDev Inspector found that based upon historical performance reliance on such windfall development to deliver housing to the extent proposed in the SAMDev Plan was proportionate and justified.
12. The appellants have produced data that calls into question progress in delivering new housing in the North Eastern Spatial Zone of the county where Wem is located. However, I note that the information supplied relates to housing completions and does not include housing commitments, such as permissions, that have yet to be implemented. As a result, I am not persuaded that it has been demonstrated there is a material problem with delivery in this part of the county. Consequently, I have no good reason to disagree with the SAMDev Plan Inspector, that reliance on windfall development in community hubs and clusters is likely to deliver the windfall housing in rural areas sought by the development plan.
13. For this reason, and given that the housing guideline figure for Wem has almost been met halfway through the plan period, I find that there is little justification in policy terms for the development of the appeal site for predominantly open market housing.
14. Both the Council and appellant have submitted a number of appeal decisions in support of their interpretation of whether the location of the proposed development would comply with the development plan. It is an established planning principle that each application is determined on its merits. For example, some of the decisions referred to pre-date adoption of the SAMDev Plan, whilst others do not. The Inspectors in these decisions would have exercised their judgement based upon the evidence before them. Similarly, I have used my judgement in respect of the evidence that is before me. Consequently, the appeal decisions referred to have not altered my findings in relation to this issue.
15. Taking all these matters into account, I therefore conclude that the location of the proposed development would be contrary to policy CS5 of the Core Strategy and policies MD3 and MD7a of the SAMDev Plan.

#### *Character and appearance*

16. A core planning principle of the Framework is that the intrinsic character and beauty of the countryside should be recognised in both plan making and decision taking. The approach of the development plan, which is to deliver new housing, other than in certain specified instances, within settlement development boundaries, is consistent with this approach.
17. The appeal site is an agricultural field next to Wem's development boundary. The countryside on the eastern side of Wem where the appeal site is located

is characterised by an attractive gently undulating landscape of large fields bounded by hedgerows. On the approach along Aston Road from the east, the openness and green character of the appeal site is readily apparent. As such, it makes a positive contribution in landscape terms to the character and appearance of the countryside area and to Wem's rural setting.

18. The indicative layout shows how the site could be developed for housing, with part of the field kept as public open space. Nevertheless, the introduction of an internal access road and dwellings would urbanise the vast majority of the site whatever final layout was decided upon. The loss of the open undeveloped nature of the field to built development would have a significant adverse effect on the character and appearance of the countryside, landscape and the rural setting of Wem. This harm could not be overcome at reserved matters stage by landscaping and good design.

#### *Agricultural land*

19. The proposed scheme would result in the loss of 2.67 hectares of grade 2 and 3 of agricultural land to development. Land within grade 1, 2 and 3a is defined in the glossary to the Framework as being the best and most versatile agricultural land. In preference to the development of this type of land the use of land of poorer quality is encouraged by paragraph 112 of the Framework. This government policy though relates to proposals involving the development of significant amounts of such land. It was common ground between the parties at the hearing, that the proposal did not involve such quantities of land. I agree with that position. In accordance with the Framework, I have therefore taken into account the economic and other benefits of agricultural land of this grade as part of the assessment as to whether or not the proposal would constitute sustainable development.

#### *Accessibility and the railway crossing*

20. The Framework seeks to give people a choice of sustainable transport options and the location of the proposed development needs to be assessed in this regard. The appeal site is located slightly less than 500m by road from the train station with bus stops a similar distance or less away. The town centre and the services and facilities that it has to offer lies approximately 1km to the west of the appeal site. The primary school is a similar distance away and the secondary school, on the opposite side of the town, is approximately 2km away. The services and facilities of Wem are, therefore, within a reasonable walking or cycling distance of the appeal site.
21. The vast majority of housing in the town is located on the western side of the railway line. As part of the process of preparing the SAMDev Plan, the appeal site was assessed as a potential site for the allocation of housing. One of the factors that counted against it was its location on the eastern side of the railway line, which is the opposite side to where the services and facilities described are located, and the regular delays and traffic congestion associated with the operation of the level crossing. Indeed, as policy S17 of the SAMDev notes, the town's allocated housing sites are located on the western side of the town due to such concerns and in order to limit the potential for further cross town traffic. On the basis of what I have read and heard, since the operation of the level crossing was automated delays have become longer.
22. In terms of ease of travel therefore, the appeal site is less than ideally located. In my judgement, in planning terms, the location of a significant number of new houses on this side of the railway line would not improve the

way that the town functions. This is a consideration that counts against the development.

23. An Inspector in allowing an appeal<sup>1</sup> for housing on land to the north of the site found its location to be relatively accessible. However, in his reasoning there is no consideration of the effects of the level crossing on accessibility. In addition, there were other matters, such as the limited weight he attached to local policies, the brownfield status of the site and the smaller number of houses proposed, which means that the circumstances of that appeal are materially different. As a result, reference to that decision has not altered my findings in relation to this issue.
24. In terms of congestion, it is accepted that the traffic generated by the proposed scheme would not add to congestion at the crossing to the extent that could not be dealt with by better traffic management secured through the submitted planning obligation. Nevertheless, this does not alter my findings regarding the less than ideal ease of access to the services and facilities in the town from the appeal site.

#### *Highway safety*

25. The highway authority has no objection to the proposed site access subject to the provision of 2.4m x 60m visibility splays. I saw no reason why such splays could not be provided and I have no reason to disagree with those conclusions.

#### *Housing land supply*

26. Paragraph 47 of the Framework advises that Local Planning Authorities should have sufficient deliverable sites to provide five years of housing against their housing requirements. The final position of the Council when the hearing was re-opened in September is that it has a housing land supply of 5.97 years, up from the figure of 5.53 years in June. However, the appellants disagree for two reasons. Firstly, in their view, the housing requirement contained in the Core Strategy is based upon the now revoked West Midlands Regional Spatial Strategy which predates the Core Strategy adopted in 2011 and is not up to date. Secondly, they consider that the full, objective assessment of housing needs (FOAHN) report published by the Council in 2016 as part of its development plan review is flawed and that it significantly underestimates the level of housing need. It is the appellants' view that the true FOAHN exceeds the Core Strategy housing requirement to the extent that a five year housing land supply does not exist.
27. I agree that given that the housing requirement is based upon the figures from the revoked the West Midlands Regional Spatial Strategy it may well not be an accurate current objective assessment of housing need. As a result, it is necessary to consider if there is a more reliable up to date assessment of such need.
28. The FOAHN is based upon the most recent DCLG household projections for Shropshire, which are that by the end of the next twenty years, there will be an additional 17,000 households in the county. Adjusting this figure for employment trends, market signals and other local issues, the FOAHN states that, as a result, there is a need for 25,178 new homes to be delivered during this period. On the basis that the Core Strategy's housing requirement of

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<sup>1</sup> Ref APP/L3245/W/15/3029727

27,500 over the plan period 2006 to 2026 exceeds the FOAHN, the position of the Council is that its housing requirement is up to date and should be used as the basis for calculating the housing land supply.

29. The appellants are critical of the FOAHN because in their view it fails to adequately address demographic projections, market signals, employment trends and affordable housing. As a result, their position is that the FOAHN correctly calculated would clearly exceed the housing requirement in the Core Strategy to the extent that a five year housing supply could not be demonstrated.
30. The proper forum in the plan led system for a full analysis of the FOAHN is the formal consultation and examination process of the development plan. However, as a recent court case<sup>2</sup> makes clear in circumstances such as the ones that apply in this appeal, an Inspector is required to make judgements based on the evidence as to the current objective assessment of housing needs and housing supply, even though this will not involve the kind of detailed analysis that would take place in the examination of the development plan. It follows that the Inspector's assessment will not be authoritative and binding in relation to other cases. It is on this basis that I have proceeded.

*Demographic projections, including migration and students*

31. The demographic projections are based upon the most recent sub national household projections (SNHPs) relating to the period 2012-2037 published by the Department for Communities and Local Government in February 2015.
32. The appellants are critical of the Council's household projections based on these projections. However, this is the most up to date information available and in the absence of robust alternative data I am not persuaded that the effect for example of migration trends, including students, has not been adequately catered for in these projections.

*Adjustments for market signals*

*Rate of development*

33. PPG<sup>3</sup> identifies the rate of development as an example of one of the market signals that should be taken into account. It advises that if, over a meaningful period, the historic rate of development shows that actual supply falls below planned supply, future supply should be increased to reflect the likelihood of under delivery of a plan. The relevant period identified by the Council in its FOAHN report is 1996 to 2015. During this period when assessed cumulatively against the actual supply the number of dwellings delivered was 2,904 less than the housing requirement.
34. My attention has been drawn to technical advice provided by the Planning Advisory Service<sup>4</sup>. It advises that 'under-supply' and 'under-delivery' relate to house building that was less than the demand or need. In Shropshire, the housing requirement has historically been set some way above housing need contained within SNHPs, rather than at or below it. As a result, it is argued by the Council that when measured against housing need and demand (as opposed to being measured against the housing requirement) undersupply has not necessarily occurred, with planning constraining supply to the extent

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<sup>2</sup> Shropshire Council v SSCLG [2016] EWHC 2733 (Admin)

<sup>3</sup> ID 2a-019-20140306

<sup>4</sup> Paragraph 7.4, Planning Advisory Service best practice guide – Objectively Assessed Need and Housing Targets

that the figure of 2,904 suggests. However, PPG is clear that where the actual supply is less than the housing requirement it should be increased as necessary to address the likelihood of under delivery of a plan. As a consequence, the argument of the Council has not altered my assessment of this issue and an uplift of 2,904 dwellings in relation to the rate of development is therefore necessary.

*Housing affordability*

35. On the basis of an assessment carried over a recent ten year period (2004 to 2014) the Council has found that affordability has improved. The appellants' position, based upon a longer time period of 20 years, is that affordability has worsened. In my judgement, the ten year period used by the Council, which covers the economic cycle of growth, recession and recovery, is sufficiently recent and of sufficient length to assess long term housing affordability. On the basis of analysis of data from this ten year period, I find that no adjustment in the FOAHN in relation to housing affordability is necessary.

*Signals of market stress (concealed households, homelessness & temporary housing)*

36. Whilst less than in the majority of comparator Local Authorities, the information available is that there has been a notable rise in concealed households in the county. This indicates that post 2012 rates may have risen at a rate not allowed for in the SNHP projections. In relation to homelessness, rates have improved since 2009 and so an adjustment to the 2012 SNHP on the evidence available is unnecessary. With regard to temporary accommodation, the evidence contained in the FOAHN is that rates are not worsening. I therefore find that an adjustment to the 2012 SNHP is also unnecessary.
37. The Council has incorporated an upwards adjustment within the FOAHN of 478 dwellings to address concealed households. Other than in relation to the past rate of housing delivery, which I have dealt with above, I consider that no further increase to the Council's published FOAHN figure is required to reflect market signals.

*Jobs growth*

38. The Council's estimates of future jobs growth are based upon data produced by Oxford Economics. The estimates take into account a variety of factors including past trends, commuting and increased economic activity for older workers due to later retirement ages. This company is one of a number of respected economic consultancies that work in this field. Reference has been made to other consultancies whose data predicts higher job growth. In the appellant's view higher rates of jobs growth should therefore be assumed. However, the Council has checked the data from Oxford Economics internally against its own sources of information and is confident that its projections are realistic. On the basis of what I read and heard I have no good reason to disagree that Oxford Economics data is a respectable basis for assessing jobs growth, or that the Council's assessment of the factors influencing jobs growth is reasonable. As a result, no adjustment in the FOAHN in relation to jobs growth is necessary.

*Affordable housing*

39. Turning to affordable housing, the FOAHN has identified that, with a current need for 4,016 homes and a future projected need of 20,780 homes, the total

need for affordable housing between 2016 and 2036 is some 24,796 dwellings. The view of the Council is that there is an allowance for affordable housing within the FOAHN figure of 25,178. Any further increase, the Council believes, would be a policy decision that would occur when establishing the housing requirement as part of any revision of the development plan. In contrast, the appellant contends that the FOAHN figure should be increased to address the issue of affordable housing and refers to two High Court judgements in support of its case<sup>5</sup>. In my assessment, having read the relevant paragraph of PPG and these judgements, the Council's approach, which recognises that through the grant of planning permission for open market housing affordable housing will also normally be provided, is the correct approach. Any further provision would be addressed in setting the housing requirement and would be a 'policy on' decision. Consequently, I have no basis to put forward an adjustment in the FOAHN in relation to affordable housing.

#### *Conclusion on the FOAHN and housing land supply*

40. Other than in relation to taking into account the rate of development, which PPG identifies as a market signal that should be taken into account, I have found the FOAHN to be robust. Adjusting the FOAHN figure upwards to address this market signal would result in a figure of 28,082 dwellings (1,404 dwellings per annum (dpa) over twenty years). This exceeds the Core Strategy housing requirement of 27,500<sup>6</sup> by 582 dwellings over the plan period. However, whether this was addressed in line with the phased approach of the Core Strategy over five years to 2021, the remaining plan period of the Core Strategy to 2026, or dealt with over the same period as the FOAHN (2016 – 2036), the Council would still, on the evidence that is before me, be able to demonstrate a housing land supply of between 5.53 – 5.97 years.

#### *Social, economic and environmental benefits*

41. The housing scheme would help address housing need, although there is currently no material shortfall in the required supply. As either 10% of the properties on site would be affordable housing, or a contribution would be paid for a similar amount of off site provision, the scheme would have social benefits.
42. In terms of the economy, new development would create employment and support growth during the construction period. The increase in the population would also boost the spending power of the local economy to some extent. Funds raised through the Community Infrastructure Levy would also predominantly be spent locally.
43. Environmentally, ecological measures such as the provision of bird / bat boxes and additional planting, would be of some environmental benefit.

#### **Overall Conclusions: The Planning Balance**

44. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: environmental, economic and social.

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<sup>5</sup> Satnam Millenium Limited v Warrington Borough Council [2015] EWHC 370 (Admin), Borough of Kings Lynn and West Norfolk v SSCLG [2015] EWHC 2464 (Admin)

<sup>6</sup> 1,190 dpa 2006-2011, 1,390 dpa 2011-2021, 1,530 dpa 2021-2026



45. In this case, the proposal would be contrary to policy CS5 of the Core Strategy and policies MD3 and MD7a of the SAMDev Plan in that it would be a housing development in the open countryside, outside the settlement development boundary of Wem. Whilst the Core Strategy predates the publication of the Framework, it is sufficiently consistent with it for me not to reduce the amount of weight that I attach to it and its policies. It has also not been shown that the Council has less than a five year supply of housing land. Consequently, the policies mentioned, which are relevant to the supply of housing, are not out of date and the tilted planning balance in paragraph 14 of the Framework does not apply.
46. I attach some weight to the economic and social benefits of additional housing, including affordable housing, and the environmental improvements that would increase biodiversity identified in the preceding section. The loss of agricultural land to development would not have a significant adverse economic effect. However, this has to be balanced against the demonstrable harm that would be caused to the countryside and landscape through the loss to development of over two hectares of pleasant attractive open countryside to development.
47. Having considered all the matters raised, I conclude that the proposal would not accord with the development plan as a whole and that the collective benefits of the proposed development are of insufficient weight to indicate that the proposal should be determined other than in accordance with the development plan. As a consequence, I therefore find that the proposal cannot be considered to be a sustainable development. The appeal should therefore be dismissed.
48. As I noted as a procedural matter, at the request of the Council the appellant has submitted a properly completed section 106 agreement. The tests in paragraph 204 of the Framework and regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) apply to planning obligations. In this case however, as the appeal is to be dismissed on its substantive merits, it is not necessary to assess the agreement against these requirements.

*Ian Radcliffe*

Inspector

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mrs Howie MRTPI	Berrys
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### **FOR THE LOCAL PLANNING AUTHORITY:**

Miss Townend	Shropshire Council
Mr West MCD MRTPI	Shropshire Council

### **INTERESTED PERSONS:**

Councillor Mellings	local Shropshire Council councillor
Councillor Dee	local Shropshire Council councillor
Dr Nash	local resident
Mrs Mayer	local resident
Mr Smith	local resident
Mr Green	local resident

## **DOCUMENTS SUBMITTED AT THE HEARING ON 15 JUNE 2016**

- 1 Shropshire Core Strategy (2011)
- 2 Site Allocations and Management of Development (SAMDev) Plan
- 3 Report on the examination into the SAMDev Plan
- 4 Section 106 agreement
- 5 Second committee report on the planning application (29 September 2015)
- 6 Shropshire Council Five Housing Land Supply Statement, dated 28 August 2015, as revised by Shropshire Council's Housing Land Supply Calculation, November 2015.

## **PHOTOGRAPHS SUBMITTED AT THE HEARING ON 20 SEPTEMBER 2016**

- 1 to 4 Footbridge over the railway.