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## Appeal Decision

Hearing held on 16 August 2016

Site visit made on 16 August 2016

**by Jonathan Hockley BA(Hons) DipTP MRTPI**

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

**Decision date: 06 June 2017**

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### **Appeal Ref: APP/L3245/W/16/3141912 Soulton 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 Mr Marcus Marsh (AFM Farming LLP) against the decision of Shropshire Council.
  - The application Ref 15/03710/OUT, dated 26 August 2015, was refused by notice dated 7 December 2015.
  - The development proposed is described as an 'outline planning application for residential development of up to 37 dwellings, with access'.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The proposal was submitted in outline with only access to be decided at this stage. I have therefore treated the submitted layout plan as indicative only, and have decided the appeal on this basis.

### **Main Issue**

3. The main issue in this case is whether the proposed development would provide a suitable site for housing, having regard to the character and appearance of the area and the development plan.

### **Reasons**

4. The fairly flat appeal site lies on the eastern side of Wem, and comprises part of an arable field. To the west of the site lies 5 large detached dwellings on Church Lane; to the north lies Ash Grove, a small residential cul-de-sac, with a new housing development immediately to the west of it. To the east and south are open fields. When approaching Wem from the east along Soulton Road the site appears as an open field, with the detached dwellings on Church Lane providing a backdrop to the top half of the site.
  5. The housing to the north does not come into view until around the east boundary of the site is reached, where the proposed access would be approximately sited. The indicative plan shows that around 37 dwellings could be located on the appeal site. Various attractive mature trees are located along the north and west boundaries; these are shown in the plans to be retained as part of the proposal.
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6. The indicative scheme shows the proposed dwellings located across the northern and eastern sides of the site. In the south west corner a large public open space area is proposed. This would tie in well with a similar area of open land on the opposite side of Church Lane. However, at present the site by virtue of its visible location on the edge of the town and open, arable nature has the character of a peaceful rural area, which the development would adversely affect. The proposal would form a noticeable and significant intrusion into what is currently open countryside and would urbanise the eastern edge of the town, extending the town further into the rural area and affecting the tranquil character of the area.
7. Due to the curvature of Soulton Road, and the open nature of views across the area to the south of the road, this effect would be prominent and noticeable to those entering and leaving the town both from and towards the east. The houses orientated to and overlooking the site from Church Lane provide a well-defined edge to the town which would be significantly and adversely altered by the proposal, causing substantial harm to the character and appearance of the area.

#### *Development Plan*

8. Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy (Core Strategy) establishes the strategic approach to development. The policy states that Market Towns and Key Centres will accommodate around 40% of the residential development over the plan period and that outside settlements, development will primarily be for the needs of local communities for affordable housing. It is common ground between the parties that the site does not lie within the settlement boundary for Wem and thus is considered in policy terms to be open countryside.
9. Policy CS5 states that in the countryside new development will be strictly controlled. Although the list of allowable development proposals is not exhaustive, the policy includes a provision that development proposals on appropriate sites should maintain countryside vitality and character. For the reasons given above I do not consider that the scheme would accord with this requirement.
10. Policy CS3 defines Wem as a Market Town and Key Centre. It states that the settlement will have development to strengthen its economic role and support and enhance its important community assets and maintain its role as a sustainable place. Policy CS6 aims to ensure that all development is appropriate in scale and design taking into account the local context and character.
11. The Site Allocations and Management of Development Plan (SAMDev) was adopted in mid-December 2015, a short time after the application was refused. Policy MD1 of this document states that sustainable development will be supported in Market Towns and Key Centres having regard to various development plan policies, including Core Strategy policy CS3 and SAMDev policies S17 and MD3.
12. Policy S17 is the settlement policy for Wem. This plans for the modest growth of around 500 dwellings. Evidence states that this guideline allocation is already catered for. Supporting text notes that the town will need to accommodate housing within its development boundary and that there are

significant opportunities for development of windfall sites within the development boundary.

13. Policy MD3 states that, in addition to settlement allocations, planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan (the Core Strategy and the SAMDev taken together), and that the settlement housing guideline is a significant policy consideration. Where a development would likely lead to more dwellings than the guideline, decisions will have regard to a number of factors, including the presumption in favour of sustainable development. The policy also states that where a settlement housing guideline appears unlikely to be met, additional sites outside the settlement development boundaries that accord with the settlement policy may be acceptable subject to the same factors. In this way sites outside the development boundary will only be considered where the housing guideline for the settlement would be unlikely to be met, a situation not likely to occur in this instance at the present time.
14. Finally, Policy MD7a of the SAMDev states that new market housing will be strictly controlled outside the Market Towns and Key Centres.
15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is confirmed by the National Planning Policy Framework (the Framework).

#### *Five Year Housing Land Supply*

16. The Framework is a material consideration, and states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Prior to the Hearing and following an appeal at Teal Drive, Ellesmere the appellant raised concerns over whether or not the council could demonstrate a five year housing land supply due to conclusions within that decision concerning the Council's full, objectively assessed needs (FOAN) for market and affordable housing. This was subsequently challenged in the High Court and the decision was quashed.
17. The Planning Practice Guidance advises that the housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. However, it also states that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs. The housing figures contained within the Core Strategy date from the previous West Midlands Regional Spatial Strategy. The purpose of the SAMDev is to provide policies and to allocate sites to meet these requirements. The SAMDev has been fairly recently considered and found to be sound. Its adoption postdates both the Framework and the Planning Practice Guidance.
18. In July 2016 the Council published a detailed report, which concludes that the FOAN for housing between 2016 and 2036 is around 25,178 dwellings, equating to 1,259 dwellings a year. This is slightly lower than the 1,375 annual dwelling requirement in the Core Strategy for 2006-2026. A great deal of time was spent at the hearing discussing the reliability of this more recent

assessment. This included concerns by the appellant about whether the FOAN had taken sufficient account of affordable housing needs. However, this and the other matters raised will be considered in due course when the development plan is reviewed. In the original appeal representations the appellant questioned the deliverability of a number of the supply sites. However, since then there have been several appeal decisions that have supported the council's position in relation to its five year housing land supply. In particular the matter was considered at an inquiry in October 2016 concerning a proposal for 137 houses at Foldgate Lane, Ludlow. Here the Inspector concluded that the council was able to demonstrate a deliverable supply based on the requirement in policy CS1 of the Core Strategy. As this requirement is higher than the FOAN advocated in the July 2016 assessment it seems to me robust. It is notable that the appellant subsequently confirmed that the council's identified housing land need and supply was not being challenged.

19. In the circumstances I have no reason to doubt that the Council has a five year housing land supply, and that consequently the housing policies contained within the Local Plan remain up to date.

#### *Sustainable development*

20. Wem is a reasonably sized town with a range of services located within it. The town is split by a railway line heading roughly north to south, with the majority of the town being on the west side of the tracks. The site falls within the area of town on the east side of this line, and is thus separated from the main part of the town by the railway line and crossing. In evidence at the Hearing, a local councillor and resident described the difficulties this can cause in terms of congestion and disruption, particularly at peak times, as well as issues of rat running to avoid such congestion. However, the Council and the Highways Authority raise no objection to the scheme based on this ground. Whilst the scheme would inevitably add some traffic to this area at peak times, I have no substantive evidence that this would lead to an adverse effect upon highway safety. The town is well within walking distance and I consider the site in this respect to be sustainably located.
21. The proposal would have a positive economic impact through the construction of around 37 new houses, and the money that residents of the proposed dwellings would spend in the local economy. The proposal would also generate social benefits by providing housing, both open market and affordable. An increase in local residents would also bring benefits through adding to the community and assisting local services, including through CIL payments.
22. An ecological report submitted by the appellant details measures to increase and maintain biodiversity at the site, primarily based on new planting and the gaping up of small breaks in the existing hedgerows. However, this needs to be set against the removal of hedge that would need to take place to form access to the site, and as a result I do not consider that such benefits would be significant.
23. There are three dimensions to sustainable development. Whilst the proposal would provide economic and social benefits, the substantial environmental effects of the scheme that I have described above on the character and appearance of the area means that the proposal overall does not represent sustainable development. The scheme would be contrary to the core planning

principles of the Framework that planning should be genuinely plan led, and should take account of the different roles and character of different areas recognising the intrinsic character and beauty of the countryside.

24. I therefore conclude that the proposed development would not provide a suitable site for housing, having regard to the character and appearance of the area and to the development plan.

### **Other Matters**

25. An appeal decision for a site on the opposite side of the road is provided in evidence. This allowed ten new houses at the end of Ash Grove. The Inspector concluded that the proposal would constitute sustainable development, considering that the site was sustainably located and that the scheme would have an acceptable impact on the character and appearance of the area. However, this site is significantly different to that proposed in this case due to its brownfield nature and the fact that it forms a relatively well screened site on the north side of the road, located between Ash Grove and an area of woodland. Furthermore, I note that this decision was made prior to the adoption of the SAMDev, to which the Inspector only gave moderate weight. The new scheme to the west of Ash Grove is an affordable housing scheme, and thus in effect constitutes an exception site.
26. The appellant raises concern over housing delivery in the spatial zone of North East Shropshire, noting that the Framework seeks to boost significantly the supply of housing, that housing completions in Shropshire are significantly lower than might be expected within the plan period, and that there is a high requirement for windfall development in the area. It considers that the Council's statement provides no evidence that this can be accommodated in settlement boundaries.
27. It was explained in the Hearing that the spatial zone approach to planning development utilised in Core Strategy policy CS1 was found to not be effective due to overlapping issues and so was not used in policy MD3 of the SAMDev. As stated above, this policy allows for additional sites outside development boundaries where the housing guideline appears unlikely to be met and supporting text notes the importance of windfall sites where sustainable. However, for the reasons given above I do not consider the appeal site to be sustainable in this case. Furthermore, I also note that, as described above, supporting text to policy S17 of the SAMDev states that there are significant opportunities for development of windfall sites within the development boundary of Wem.
28. I have been referred by both the council and the appellant to a large number of appeal decisions. However, the majority of these decisions predated the adoption of the SAMDev and therefore the statutory policy position was different. The decisions at Cross Houses and All Stretton postdate the SAMDev adoption. However, in those cases the Inspectors found that the proposal would not have an adverse effect on the countryside and would constitute sustainable development. I have reached a different conclusion on this appeal.
29. Subsequent to the Hearing various other appeal decisions have been submitted by both parties. The decision relating to Queens Head, Oswestry relates to a small infill site and would thus not appear as an encroachment into the countryside, in the way that I have concluded this appeal would. My colleague

in the Foldgate Lane, Ludlow decision concluded that the site would have a minimal impact on the character and appearance of the area, which also varies to my conclusions above. Whilst I note some differences in the interpretation of the local plan policies within the various appeal decisions referred to me, I have outlined my view on such policies in paragraphs 8-15 above and the submitted decisions do not lead me to any different conclusions on this matter.

30. A signed Section 106 agreement covering matters of affordable housing was submitted within the evidence. Other than the social benefits of this provision, which I have considered above, I have not considered this matter further given that I am dismissing the appeal.

### **Conclusion**

31. The proposal would be contrary to the development plan when taken as a whole and conflict with policies CS1, CS5, CS3 of the Core Strategy and policies MD1, S17, MD3 and MD7a of the SAMDev. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Jon Hockley*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Stuart Thomas	Berrys
Helen Howie	Berrys

### **FOR THE LOCAL PLANNING AUTHORITY**

Philip Mullineux	Shropshire Council
Edward West	Shropshire Council

### **INTERESTED PARTIES:**

Cllr Chris Mellings	Ward Councillor
Paul H Naylor	Local resident
Carole Warner	Clerk to Wem Rural Parish Council
Sue Austin	Shropshire Star

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Letter from the Treasury Secretary, Government Legal Department to The Planning Court, dated 09/08/16 ref Z1615973/ASM/B5
2. Appeal Decision APP/L3245/W/16/3149461, Yew Tree Inn, Shrewsbury Road, All Stretton, Shropshire.
3. CO/2850/2016 Submission to High Court, Shropshire Council v SoSDCLG and BDW Trading Limited, 24/06/16.
4. Traffic Survey submitted by Mr Naylor.
5. Appeal Decision APP/L3245/W/16/3142894, Land off Mount Close, Pontesbury, Shrewsbury, Shropshire.
6. Satnam Millenium Limited v Warrington Borough Council, [2015] EWHC 370 (Admin).
7. Kings Lynn and West Norfolk BC v SoSCLG and Elm Park Holdings Ltd, [2015] EWHC 2464 (Admin).

8. Kings Lynn and West Norfolk BC v SoSCLG and Elm Park Holdings Ltd, [2015] EWHC 2464 (Admin) – Alternative numbering to Document (7), derived from Westlaw UK.
9. Excerpt from Shropshire Adopted Core Strategy March 2011, Policy CS10.
10. List of Neighbours and Consultees consulted on Hearing date. Shropshire County Council.

### **DOCUMENTS SUBMITTED AFTER THE HEARING**

1. Appeal Decision APP/L3245/W/15/3137161, Land at Foldgate Lane, Ludlow and covering email dated 11/11/16 from the Appellants.
2. Shropshire Council v SoSCLG, BDW Trading Limited trading as David Wilson Homes (Mercia), Magnus Charles Mowat, and Martin John Mowat [2016] EWHC 2733 (Admin), 02/11/16, and covering press release (unattributed).
3. Email from the LPA, dated 28/11/16, in response to (1) above.
4. Email from the appellants, dated 30/11/16, in response to (2) above, and providing more evidence in relation to (1).
5. Appeal decisions APP/L3245/W/15/3138752 & APP/L3245/W/15/3138755, The Larches, Shawbury Road, Wem, Shropshire and covering email dated 07/12/16 from the LPA.
6. Final comments from the appellants referring to (5) above, email dated 16/12/16.