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## Appeal Decision

Site visit made on 20 November 2017

by **Alexander Walker MPlan MRTPI**

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

Decision date: 12<sup>th</sup> December 2017

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**Appeal Ref: APP/L3245/W/17/3181605**

**Fairview, The Titrail, Lion Lane, Clee Hill, Ludlow, Shropshire SY8 3NH**

- 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 David Griffiths against the decision of Shropshire Council.
  - The application Ref 16/03599/OUT, dated 8 August 2016, was refused by notice dated 29 March 2017.
  - The development proposed is the erection of two 3 bedroom detached houses (maximum floor area of each 140m<sup>2</sup>).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on this basis. A site plan was submitted with the application, and subsequently a revised site plan, indicating the siting of the dwellings and the proposed access and widening of Lion Lane. Whilst these drawings are not labelled as indicative, given that all matters were reserved, I have considered them as such.
3. Both parties have had the opportunity to comment on the recent judgement of *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)*. I will address this letter in this decision.

### Main Issues

4. The main issues are whether the proposal would accord with the Council's housing strategy in terms of its location; and, the effect of the proposal on the character and appearance of the area, including with regard to its location within the Shropshire Hills Area of Outstanding Natural Beauty (AONB).

### Reasons

#### *Housing Strategy*

5. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. The policy goes on to state that development in rural areas will be predominantly in Community Hubs and Community Clusters.

6. Policy S10 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015 identifies Ludlow as the largest market town in southern Shropshire and that new housing development will be delivered primarily on the allocated housing sites east of the A49 alongside additional infill and windfall development within the town's development boundary. The proposal does not fall within the settlement boundary of Ludlow.
7. Policy MD1 of the SAMDev identifies those settlements that fall within a Community Hub or Community Cluster. The appeal site is located on Lion Lane and is close to the settlement of Knowle. Approximately 1km to the north is Clee Hill, which Policy MD1 identifies as a Community Hub. The Council confirms that the site is not located within the settlement boundary of Clee Hill. Therefore, for the purposes of planning, the site is considered to be within the open countryside.
8. Policy CS5 of the CS allows new development in the open countryside only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. There is no evidence before me to suggest that the proposal falls within any of the development listed in Policy CS5.
9. In support of Policy CS5, Policy MD7a of the SAMDev states that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. It sets out various types of residential development that would be permitted in the countryside, including exception site dwellings, residential conversions and essential rural workers' dwellings. The proposal includes for one affordable dwelling. However, whilst the appellant confirms that he is happy to enter into a legal agreement with the Council to secure the dwelling as such, there is no executable agreement before me. In any event, as the proposal also includes for an open market dwelling in the open countryside it would fail to satisfy Policies CS5 and MD7a.
10. The Council confirms that they have a five year supply of deliverable housing land. The appellant does not dispute this. Therefore, based on the evidence before me, I am satisfied that the Council do have a five year supply of deliverable housing land and paragraph 49 of the National Planning Policy Framework (the Framework) is not engaged. The SAMDev has relatively recently been adopted and found to be in accordance with the Framework. In addition, I find no inconsistency between the relevant policies within the CS and the Framework. The development plan has policies that are relevant to the supply and location of housing against which the appeal proposal can be considered. Accordingly, the relevant policies are considered to be up to date and consistent with the Framework. As such, bullet point 4 of paragraph 14 of the Framework is also not engaged.
11. I find therefore that the proposal would fail to accord with the Council's housing strategy, as embodied in Policies CS1 and CS5 of the CS and Policies MD1, MD7a and S10 of the SAMDev. Furthermore, it would fail to accord with the housing supply objectives of the Framework.

### *Character and appearance of the AONB*

12. The appeal site is located within an attractive rural area within the Shropshire Hills AONB. Paragraph 115 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Policies CS17 of the CS and MD12 of the SAMDev reflect paragraph 115 and seek to ensure that development contributes to local distinctiveness including the special qualities of the AONB. In addition Policies CS6 of the CS and MD2 of the SAMDev seek to protect the natural environment and contribute to and respect locally distinctive or valued character.
13. The appeal site comprises a small, open field. It is on an incline rising from south to north and is accessed off Lion Lane, which is a narrow, hedge-lined, unmade road that serves approximately 24 properties. This part of the AONB is characterised by the sporadic pattern of development that is interspersed by fields and common land, which provide an attractive rural setting.
14. The proposed dwellings and their associated garages would be adjacent to existing built form, including two recently built dwellings immediately to the east and the Golden Lion public house (currently vacant) and three newly built holiday cottages on the opposite side of the lane. However, the erection of two dwellings on the appeal site would inevitably erode the openness of the site which makes a positive contribution to the character and appearance of the area. Moreover, the intensification of the existing built form within the vicinity of the site would fail to reflect the existing sporadic pattern of development, introducing a more urbanised setting that would diminish the rural character. This urbanising effect would be exacerbated by the proposed widening of Lion Lane, which itself is very rural in its character and appearance. The increased width of such a large section of the lane, which would likely involve cutting into the land to its side and the loss of existing hedgerows, further detracting from the rural setting.
15. I acknowledge that the dwellings would be largely screened by existing buildings, hedges and trees from medium and long distances. Nevertheless, they would clearly be visible from short distances along Lion Lane. As a consequence, the proposal would be a visually intrusive form of development that would unacceptably detract from the rural character and appearance of the area and cause material harm to AONB interests. As such, it would be contrary with Policies CS6 and CS17 of the CS and Policies MD2 and MD12 of the SAMDev. Furthermore, it would fail to accord with the design objectives of the Framework.

### **Other Matters**

16. I have had regard to the neighbouring recently permitted dwellings and holiday cottages. The Council confirms that the neighbouring two dwellings are both affordable dwellings. Whilst I acknowledge that the appellant confirms that one of the proposed dwellings could be an affordable dwelling, the other would be an open market dwelling. Therefore, the policy considerations between the approved dwellings and the proposal before me are markedly different. With regard to the holiday cottages, the details of the Council's consideration of this scheme are not before me. Nevertheless, as it is holiday cottages, and not open market dwellings, again, the policy considerations are likely to be

markedly different. I have also had regard to the larger development to the north of the site. However, I cannot be certain that the approved scheme was considered in the same policy context as the proposal before me. As such, I cannot draw any direct comparison between the approved schemes and the appeal proposal.

17. I have had regard to the support of the proposal from local residents. However, whilst I have taken into account this support I have also considered the proposal against the relevant policies of the development plan.

### **Conclusion**

18. As I have found that the development plan is not absent or silent, or the relevant policies out of date, the presumption in favour of sustainable development in paragraph 14 of the Framework does not apply. In any event, the tilted balance is not engaged by virtue of footnote 9 of the Framework as the site is in the AONB and specific policies within the Framework indicate that development should be restricted.
19. The proposed widening of Lion Lane would improve highway safety. Furthermore, the proposal would provide some economic benefit, albeit limited, by creating construction jobs and using local materials. Moreover, it would make a positive contribution, again albeit limited, to the supply of housing. However, the site is not readily accessible by foot or public transport to services, facilities or employment opportunities and, as I have identified above, it would significantly harm the character and appearance of the AONB.
20. Whilst the identified benefits of the scheme weigh in favour of the proposal, I do not find that, individually or cumulatively, they outweigh the harm it would have by virtue of it undermining the Council's housing strategy and the significant harm it would have on the character and appearance of the AONB.
21. I have had regard to the recent judgment of 15 November 2017<sup>1</sup>, concerning the interpretation of the term "isolated homes in the countryside" within paragraph 55 of the Framework. However, in that instance the Council could not demonstrate a five year supply of deliverable housing land and accordingly bullet point 4 of paragraph 14 of the Framework was engaged. As I have found that the Council can demonstrate a five year supply of deliverable housing land and bullet point 4 of paragraph 14 of the Framework is not engaged, in this instance, whether or not the proposal would be considered an isolated dwelling is not relevant.
22. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR

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<sup>1</sup> Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)