

---

## Appeal Decision

Hearing held on 3 February 2015

Site visit made on 3 February 2015

**by Tom Cannon BA DIP TP MRTPI**

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

**Decision date: 19 May 2015**

---

**Appeal Ref: APP/L3245/W/14/3000672**

**Land adjacent to The Larches, Shawbury Road, Wem, Shrewsbury, SY4 5PF**

- 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 & Mrs M Jones and F, S, P, H Ratcliff against the decision of Shropshire Council.
  - The application Ref 14/00797/OUT, dated 21 February 2014, was refused by notice dated 5 June 2014.
  - The development proposed is outline planning permission for residential development and access (all other matters reserved).
- 

### Decision

1. The appeal is dismissed

### Preliminary Matters

2. The application was made in outline with all matters reserved other than access. I have determined the appeal on this basis.
3. The parties agreed at the Hearing that the Council's emerging Site Allocations and Management of Development Plan (SAMDev) can be afforded limited weight as the examining Inspector's report has yet to be produced. Based on all that I have read and heard I agree with this. I have, therefore, considered the appeal against the adopted development plan and national policy.
4. The appellant submitted an amended plan with the appeal reducing the site area. Although the Council confirmed at the Hearing that the revised site area would not have altered their decision on the original application, they agreed that the proposed amendment would represent a significant change. Furthermore, local people and statutory bodies have not been formally consulted on the proposed amendments.
5. Therefore, following the Wheatcroft principles, as the site area would be significantly altered and those who should have been given the opportunity to comment on this amendment have been denied the right to do so, I have not accepted the amended plan as part of this appeal. Thus, I will proceed to determine the appeal on the basis of the plans on which the Council made their decision.
6. The representative acting on behalf of local residents wished to place on record that work involved preparing a response on the amended plan had therefore been unnecessary, and could have been avoided if it had not been accepted when the appeal was lodged. Nevertheless, it is clear from the correspondence

on file that the decision on whether or not to accept the amended plan would rest with the Inspector at the Hearing.

7. I have also been provided with updated position statements from the parties regarding housing supply in Shropshire, and a copy of the appellant's Five Year Supply Rebuttal Statement submitted to the SAMDev examining Inspector. Comments have been received from both the appellant and Council in response to the respective statements.

### **Main Issues**

8. Based on all that I have seen, read and the discussion at the Hearing, I consider that the main issue in this case is whether or not the proposal would provide a suitable site for housing having regard to housing supply, the character and appearance of the area and the principles of sustainable development.

### **Reasons**

#### *Housing land supply*

9. The Framework sets out in paragraph 47 that to boost significantly the supply of housing, local planning authorities should be able to demonstrate a 5 year supply of deliverable housing sites. There is a disagreement between the parties as to whether the Council can demonstrate a 5 year supply of deliverable housing land. The Council confirmed at the Hearing that they can currently demonstrate a 5.43 year supply of deliverable housing land not the 5.48 years referred to in their appeal statement.

#### *Housing requirement*

10. Policy CS1 of the CS sets out a housing requirement figure of 27,500 new homes for Shropshire within the plan period 2006-2026. The Council would prefer to apply a phased rather than annualised approach to calculating their housing requirement. I recognise that this method has been accepted elsewhere and the policy wording in Policy CS10 of the CS originally contained reference to a phased trajectory prior to its adoption in 2011. However, this reference was removed due to concerns that it could suppress development. Moreover, the explanation for Policy CS10 makes it clear that the purpose of this policy is to guide phased allocations in the SAMDev and will not impact on the assessment of five year supply. Therefore, in my view the annualised approach is the most appropriate method to apply in this case. This equates to an annual requirement of 1,375 dwellings or a total requirement for the period 2006-2014 of 11,000 new homes.

#### *Under-delivery and application of the buffer*

11. Over the first 8 years of the plan period 8,280 dwellings have been provided in Shropshire. This represents a shortfall in the supply of housing of 2,720 dwellings. In addressing its existing shortfall the Council has put forward four potential scenarios. One of these approaches follows the 'Sedgefield method' where the shortfall in delivery should be met within the next five years, with the remaining three options advocating the 'Liverpool method' where it should be spread out over the remainder of the plan period, in this case the next 12 years.

12. I acknowledge the Council's concerns that the resultant five year requirement is so large that it would be undeliverable in the Shropshire market. I also recognise that the SAMDev is at an advanced stage of preparation and may facilitate the delivery of sites later on in the plan period. However, this would be at a stage of even higher forecast housing demand following the increasing five year bands in Policy CS10 and where there are likely to be fewer allocations. Moreover, the 'Sedgefield approach' more closely accords with the Framework requirement to 'boost significantly the supply of housing' and advice in the Planning Practice Guidance (PPG) that local planning authorities should aim to deal with any undersupply within the first five years of the plan period where possible, which in this case amounts to 2,720 dwellings.
13. The Council does not dispute that there has been persistent under delivery of housing in previous years of the plan period. In the circumstances, the application of a 20% buffer, in accordance with paragraph 47 of the Framework, is agreed between the parties. I have no reason to disagree. This amounts to a total of 1,375 dwellings.
14. It is however disputed how the 20% buffer should be applied to the five year requirement or to the five year requirement plus the backlog. The appellants argue that the application of the buffer should include the backlog, thereby increasing the five year housing requirement, and reducing the housing land supply to less than five years based on the late November 2014 figure. The Framework makes clear that the buffer is to ensure choice and competition in the market for land, that it should be supply brought forward from future years of the plan period. I am persuaded by the Council's argument that applying the buffer to the sum of the five year requirement and the backlog would increase the total housing requirement over the lifetime of the plan, and that this approach would represent a penalty on the Council which is not intended by the Framework.

#### *Housing supply*

15. I do not agree with the appellant's points concerning an additional discount for North Shropshire, due to the viability of building residential properties in the Northern part of the County as opposed to other parts of the County. Although the appellant has indicated that the delivery rate is proportionally lower in the North, the logical implication of such a policy would be to even out such a discount by reducing discounts in other areas of the County.
16. The appellant has made reference to delays in issuing section 106 legal agreements and older consents. The Council confirmed at the Hearing that about 76% of applications with a resolution to grant subject to a section 106 agreement included in their five year supply have now been issued. Whilst a proportion of these applications remain unsigned, I note that such sites have a 10% discount applied to them which appears reasonable to me. This buffer also allows for reduced delivery rates on sites recently granted outline planning permission, or sites in the early stages of construction such as on land at Bowbrook and Sutton Grange in Shrewsbury and Coppice Green Lane, Shifnal.
17. It has been put to me that the proposed delivery rates for the Shrewsbury and Oswestry Sustainable Urban Extensions (SUEs) are overly optimistic. The SUEs at Shrewsbury south and west are either under construction or subject to current planning applications. The time period allowed for the appropriate consents and suggested delivery rates appear to be reasonable in both cases.

However, a planning application has yet to be submitted on land North of Shrewsbury Road, Oswestry. There are also potential land ownership issues with this site. It therefore appears somewhat optimistic for outline and reserved matters approval to be granted, conditions discharged and the first 25 dwellings to be constructed by the end 2017 as the Council suggests. Consequently, I have discounted the 25 units to be provided in 2016/17 from the Council's late November 2014 housing supply figure of 11,063 houses.

18. In reference to older permissions, the Council has included a number of outline consents which are over three years old and have therefore expired. Some of these permissions were granted more than ten years ago and have not been superseded by full planning permissions. The Council's housing supply update confirms that sites at Ellesmere Wharf, the Royal Shrewsbury Hospital, Arrow County Services, Longden, Mill Green Lane, Knighton and Newcastle Road Market Drayton have either been constructed or benefit from extant planning permissions. However, on the basis of the evidence put before me I am unable to conclude that the remaining sites are still viable or available, offer a suitable location for development, and are achievable with a realistic prospect that housing will be delivered within five years. Therefore, I cannot conclude that any of these sites are deliverable. As such, I have deleted 39 dwellings in this category.
19. From the other sites identified with potential delivery problems, I also note that the Former Dairy Site, School Road, Ruyton XI Towns is still in commercial use. Nevertheless, the Council's update has confirmed that this site has an extant planning permission. I have not therefore discounted the impact of this site (80 units) from supply.
20. It has also been put to me that C2 units should not be included in the Council's 5 year supply figures, with affordable housing only counting if it has secure funding from the Homes and Community Agency (HCA). The Council confirmed that it only includes C2 accommodation if they are self-contained residential units, which appears to be a reasonable approach to me. Although the appellant has queried whether certain sites have HCA funding I have not been provided with any evidence to verify this. Furthermore, the Council's November 2014 update confirms that the Unicorn/Whittington Road site in Oswestry which benefits from HCA funding has not been included in their 5 year supply. This site would provide 53 units and therefore exceed the total number of affordable units referred to by the appellant. The site at Station Road, Dorrington which was dismissed on appeal has also been deleted from the Council's November 2014 figures.
21. The appellant has referred to the recent examination into the Cheshire East Local Plan where the Inspector stated that many local plan proposed allocations may be excluded from supply since they are not yet allocated or committed. Nevertheless, although it has been agreed that the SAMDev only attracts limited weight in the assessment of this appeal it is clearly at an advanced stage of preparation with the Inspector's report anticipated in April/May 2015.
22. Furthermore, I have not been supplied with specific details of the potential unresolved objections to certain selected allocations which the appellant indicates should not be considered. Nor, as confirmed by the Council at the Hearing, should small sites such as Schoolhouse Lane, Bishops Castle be discounted purely due to their relative proximity to the River Clun Special Area

of Conservation. Consequently, the evidence provided by the Council provides an up to date assessment on the current status of many of these sites and the ones considered appropriate to include within the 5 year housing land supply. I am therefore satisfied on the basis of the evidence put before me that these sites are achievable and viable with a realistic prospect that housing will be delivered on the sites within five years.

#### *Housing conclusion*

23. In summary, the Council's five year housing requirement is 6,875. Accounting for the identified shortfall and implementation of the 20% buffer, and removing 25 dwellings from the total number of units to be delivered at the Oswestry SUE and 39 houses from sites with outline consent from the late November 2014 figure of 11,063 leaves a supply of 10,999 dwellings. This represents a surplus of 29 houses.
24. Therefore, from the evidence that was available to me, it appears that from the Council's perspective, they are able to demonstrate a 5 year supply deliverable housing land. Consequently, paragraph 49 of the Framework is not engaged and local plan policies relevant to the supply of housing are up-to-date, subject to their consistency with the Framework as set out in paragraph 215.

#### *Development Plan*

25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises of the Shropshire Local development Framework Adopted Core Strategy 2011(CS) and certain policies of the North Shropshire Local Plan 2005 (LP) which have been saved following a Direction made by the Secretary of State.
26. Policies CS1 and CS3 of the CS specify the number and distribution of housing across the County, with new development to be focused in market towns and other key centres. Policy CS5 states that new development will be strictly controlled in the countryside except for certain defined uses, none of which are subject to this proposal. These policies are broadly consistent with the Framework objectives to focus new development in sustainable locations and protect the intrinsic character and beauty of the countryside. The appeal site is located in the open countryside, outside a market town or other key centre and thus would conflict with Policies CS1, CS3 and CS5 of the CS.
27. Reference has also been made to Saved Policy H5 of the LP. This policy essentially seeks to restrict housing development to within settlement boundaries. It therefore applies a more restrictive approach and is not entirely consistent with the Framework's presumption in favour of sustainable development. This reduces the weight I attach to this policy in my assessment of this case.

#### *Character and appearance*

28. The appeal site comprises of an irregular shaped parcel of land situated in the open countryside to the south-east of the town of Wem. Although there are several residential properties immediately opposite the site, and the land adjoins the existing dwelling at The Larches, the area, particularly on the

northern side of Shawbury Road is largely defined by open, undeveloped agricultural land. The varied field pattern and absence of built development in this area contributes to a pleasant semi-rural environment.

29. The land sits away from the main urban form of Wem and is physically separated from the town by the raised railway embankment which defines the eastern boundary of the settlement. Whilst there is a cluster of development and a proposed employment site in the emerging SAMDev directly adjacent to the railway line, the appeal site is physically detached from this area by open agricultural land.
30. I recognise that the proposed residential development is in outline form. The appellant also confirmed at the Hearing that part of the appeal site would be designated as an area of open space and that the number of dwellings could be restricted to 17. However, the land extends out significantly to the side and rear of The Larches. By introducing new residential development in this area which is surrounded by agricultural land, the appeal scheme would introduce a visually intrusive form of development which would conflict with the open, undeveloped character of the area. This impact would be exacerbated by the even land form and alignment of Shawbury Road which would open up the site to view from the surrounding countryside.
31. Although there is some sporadic housing development on Shawbury Road, this principally comprises of a small linear group of dwellings on the southern side of the road. The appeal scheme due to the quantum of development proposed and extensive depth and scale of the site would also therefore fail to respect the established structure and pattern of existing development in the area.
32. I am mindful that the proposed employment land could project out into the open countryside to the north. Nevertheless, this site adjoins an existing employment site and follows the route of the railway line. As such, it would be both physically and functionally connected to the settlement reducing its potential incursion into the countryside. It would therefore differ from the appeal scheme which would retain a sense of separation from the built form of Wem. Whilst I recognise that there is no specific policy requirement for new development to be 'contiguous', this does not outweigh the harm I have identified to the form and layout of this semi-rural area.
33. Thus, the proposed residential development would have a detrimental impact on the character and appearance of the area. It would therefore be contrary to Policies CS6 and CS17 of the CS which require new development to protect and enhance the high quality and local character of Shropshire's natural and built environment. It would also conflict with a core planning principle of the Framework, to take account of the different roles and character of different areas and recognise the intrinsic character and beauty of the countryside.

#### *Sustainability and accessibility*

34. The appeal site is located on Shawbury Road approximately 300 metres south-east of Wem. There is a continuous footway linking the site with the edge of the town and a petrol station and general convenience store. Whilst the footpath is only partially lit and located on a busy road, it would provide a clear route into Wem for potential future occupiers. I also observed that the footway narrows in places including on either side of the railway bridge and at certain points along the route into the town centre. However, it is proposed to widen

the footway adjacent to the bridge to improve access. This could be achieved by utilising part of the highway verge through an appropriately worded condition as suggested by the Council's highways engineer.

35. I was also able to walk into the centre of Wem to access shops, schools and the towns train station. At a distance of about 1 kilometre, the range of services and facilities within the High Street are within a reasonable walking distance of the appeal site even accounting for the need to cross the road at several points. Although the train station and schools are between 1.5 and 2 kilometres away they would also be relatively accessible from the appeal site, particularly by bicycle. Indeed, existing residents in the southern part of the town have to travel similar distances to access these facilities.
36. In terms of public transport, the nearest bus stop is situated on the route into town about 650 metres from the site. I observed during my site visit that this bus stop provides a regular service between Shrewsbury and Whitchurch. This adds to the sustainability credentials of the scheme.
37. Having regard to the above factors, I conclude that the appeal development is located in a reasonably accessible and sustainable location. It would therefore accord with Policy CS6 in this respect which requires proposals that are likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. These objectives are consistent with guidance in paragraph 17 of the Framework that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

### **Overall Planning Balance**

38. Paragraph 7 of the Framework states that there are three dimensions to sustainable development: economic, social and environmental. These roles are mutually dependant and should be jointly sought to achieve sustainable development.
39. The Framework seeks to boost significantly the supply of housing. Given my conclusion of the Council's five year housing supply, however, the appeal site is not required to meet the area's identified housing need. Therefore, little weight can be attached to the release of this unallocated, greenfield site to meet housing need.
40. The proposal would generate substantial economic benefits during the construction phase and through the ongoing support for local businesses in Wem by future occupiers of the new dwellings. It would also provide additional income through the new Homes Bonus and Council Tax receipts. I attach moderate weight to these benefits.
41. Turning to the social aspects of sustainability, the scheme would provide on-site affordable housing to meet a recognised need in accordance with Policy CS11 of the CS and the Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document 2012 (SPD). It would also represent chargeable development under the Council's Community Infrastructure Levy required to mitigate the effects of the proposal and thereby contributes towards infrastructure in the local area. I apportion moderate

weight to such considerations. In addition, the sites relatively accessible location also weighs in favour of the scheme.

42. In relation to the environment, the submitted Environmental Survey identifies that the development would not adversely affect ecology. I also recognise that conditions requiring a detailed landscaping scheme to be submitted could mitigate the visual impact of the scheme to a limited extent. Furthermore, the introduction of energy efficiency measures in the design of the dwellings at reserved matters stage could provide some additional limited benefits.
43. However, on the other hand, there would be significant harm to the character and appearance of the area, in conflict with development plan policies referred to earlier and the policies of the Framework to conserve and enhance the natural environment.
44. Boosting significantly the supply of housing will inevitably require housing to be built on some greenfield sites which will result in changes to the local environment. Nonetheless, the substantial harm to the character and appearance of the area that would arise from this development, and the conflict with specific development plan policies would significantly and demonstrably outweigh the acknowledged benefits of the proposal. I therefore find that the appeal development would not provide a suitable site for housing having regard to housing supply, the character and appearance of the area and the principles of sustainable development.

### **Other Matters**

45. Local residents have raised concerns regarding existing problems with flooding in the area. It is evident from the photographs and both written and verbal evidence provided at the Hearing that both the land adjoining and opposite the site floods during periods of heavy rain. Sections of Shawbury Road can also become flooded. I appreciate that residents are concerned about the potential implications the appeal development could have on adjacent land including their own properties. However, such matters could be mitigated through the imposition of conditions requiring the submission and approval of a comprehensive drainage scheme and Flood Risk Assessment prior to the submission of reserved matters.
46. I have been provided with a copy of a letter from Wem Town Council (WTC) which indicates that up to 100 dwellings could be provided on Shawbury Road. Nevertheless, WTC have objected to the appeal scheme and I have taken their representations into account in reaching my decision.
47. It has also been put to me that the Council's Planning Policy Team (PPT) questioned the Council's ability to resist the development. From my reading of the PPT formal comments it is clear that they objected to the scheme and indicated that the case officer would need to balance any benefits associated with the development against any potential adverse impacts. It is evident from the committee report that this balancing exercise has clearly been carried out by the Council in reaching their decision.
48. Whilst paragraphs 186 and 187 of the Framework advise that local planning authorities should approach decision-taking in a positive way and look for solutions not problems, in this case the appeal proposal would conflict with the overarching aim of the Framework to deliver sustainable development. Nor



would the fact that the scale of the appeal scheme would not compromise the future housing allocations in the SAMDEV for Wem or its limited impact on the living conditions of nearby properties justify the development.

### **Unilateral Undertaking and the Community Infrastructure Levy**

49. A signed Unilateral Undertaking (UU) dated 30 January 2015 has been submitted which would secure contributions towards affordable housing. The appeal proposal would also represent chargeable development under the Council's Community Infrastructure Levy (CIL) which would help mitigate the impact of the scheme if permission were granted. However, given my conclusions on the appeal, there is no need for me to consider the matter further.

### **Conclusion**

50. For the reasons set above, and having regard to all other matters raised, including the scope of possible planning conditions, I conclude that the appeal should be dismissed.

*T Cannon*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr M Parrish	The Planning Group Limited
Mr D Richards	The Planning Group Limited
Mrs H Howie	Berrys

### FOR THE LOCAL PLANNING AUTHORITY:

Mr A Cooper	Team leader Environmental Policy Shropshire Council
Mrs J Preece	Technical Specialist Planning Officer Shropshire Council
Mr D Corden	Planning Policy Officer Shropshire Council

### INTERESTED PARTIES

Mr R Unwin	Richard Unwin Chartered Surveyors Acting on behalf of local residents
Mr A Gregory	Local resident, Stamford, Shawbury Road, Wem, SY4 5PF
Mr G McGrath	Local resident, Red House, Shawbury Road, Wem, SY4 5PF
Mr B Clay	Local resident, Waldrow, Shawbury Road, Wem, Shropshire, SY4 5PF

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Plan identifying the Wem development boundary in the North Shropshire  
Local Plan 2005
5. Plan identifying the Wem development boundary in the emerging  
Site Allocations and Management of Development Plan (SAMDev)
8. Updated appendices 3 and 4 to the Shropshire Five Year Housing Land Supply  
Statement