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# Appeal Decision

Site visit made on 31 March 2015

**by C Sproule BSc MSc MSc MRTPI MIEnvSc CEnv**

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

**Decision date: 10 June 2015**

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**Appeal Ref: APP/L3245/W/14/3001334**

**Site positioned directly to the north of The Old Granary, Pulverbatch**

- 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 Ms T Wood against the decision of Shropshire Council.
  - The application Ref 14/02223/OUT, dated 14 May 2014, was refused by notice dated 21 August 2014.
  - The development proposed is an outline application for the development of a single open market dwelling with all matters reserved except the proposed access provision.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. These reflect matters within the Council's reason for refusal and are: a) the effect of the proposed development on the character and appearance of the countryside, having particular regard to the Shropshire Hills Area of Outstanding Natural Beauty (AONB) ; and, whether the proposal would be a sustainable form of development in relation to service provision and employment opportunities.

## Reasons

### *Planning policy*

3. The appeal site lies within open countryside that is also an AONB. The Council's reason for refusal refers to *Shropshire Local Development Framework: Adopted Core Strategy* – March 2011 (CS) policies CS4, CS5, CS6 and CS17.
4. CS policy CS4 aims to ensure that in the rural area, communities will become more sustainable by matters that include not allowing development outside certain settlements unless the proposal meets CS policy CS5. CS policy CS5 seeks to strictly control new development in accordance with national policy protecting the countryside and Green Belt. CS policy CS5 is permissive of development proposals on appropriate sites that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly when these relate to the matters listed in the policy.

5. CS policy CS6 seeks to create sustainable places, through development of high quality design using sustainable design principles, to achieve an inclusive and accessible environment that respects and enhances local distinctiveness and which mitigates and adapts to climate change. It seeks to ensure that all development, amongst other things: protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and features that contribute to local character; and, makes effective use of land and safeguards natural resources including high quality agricultural land, geology, minerals, air, soil and water.
6. CS policy CS17 requires development to identify, protect, enhance, expand and connect Shropshire's environmental assets to create a multifunctional network of natural and historic resources. It seeks all development to contribute to local distinctiveness, having regard to matters that include landscape, biodiversity and heritage assets.
7. Paragraph 14 of the National Planning Policy Framework ('the Framework') confirms the presumption in favour of sustainable development to be at the heart of the guidance. For decision-taking, the paragraph notes the presumption to mean: approving development proposals that accord with the development plan without delay; and, where the development plan is absent, silent or out-of-date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies of the Framework indicate that development should be restricted. Footnote 9 of the Framework confirms the 'specific' policies to include those relating to AONBs.
8. Framework paragraph 115 states that great weight should be attached to conserving landscape and scenic beauty in AONBs, which along with National Parks have the highest status of protection in relation to landscape scenic beauty.

*Character and appearance*

9. Pulverbatch and the appeal site are within rolling agricultural countryside that includes occasional development, and is comprised of a patchwork of fields with wooded areas and steeper slopes rising to hilltops. These features result in a landscape that displays the natural beauty that would be expected in a locality designated as an AONB.
10. The proposal would provide outline planning permission for a new open market dwelling to be constructed to the north and west of other development in this part of Pulverbatch. Matters reserved in respect to this outline proposal include scale, layout, appearance, and landscaping. Therefore, any indicative (reserved) details provided at this stage reasonably would be expected to change in a final scheme.
11. At present the appeal site forms part of a much larger field. An access and an area of field would remain between the appeal site and the dwellings at The Old Granary and within the converted barns next to it. These dwellings are to the south and east of the appeal site, and at a lower level. A large area of field would remain between the appeal site and development to the east.

12. A track extends south westwards from a junction on the opposite side of the road from the southernmost extent of the appeal site. Detached dwellings, including a number that have been built recently, are present along the southern side of the track, with a house that application drawings indicate to be 'The Coppice' standing at the junction and in close proximity to the appeal site.
13. Even so, the layout of existing and proposed landuses around this junction would ensure that a house on the appeal site would stand apart, and be visually distinct, from the development within Pulverbatch, including The Old Granary and the dwellings next to it. The rising topography would emphasise this, along with the open field area immediately to the east of the appeal site. Development within the village has, for the most part, a characteristic close-knit form that extends along the main road passing through the centre of the settlement. The positioning of the appeal site would cause any future dwelling to depart from this characteristic layout, even if the architecture of the dwelling were to be sympathetic to that found in the locality.
14. The appeal proposal would introduce built residential development with an access, and roadside curtilage that would be of significant scale, onto agricultural land that currently contributes to the natural beauty of the AONB. In this respect the appeal scheme would erode the rural character of the locality, and fail to conserve and enhance the natural beauty of the area. This conflicts with CS policies CS6 and CS17 and the objectives of Framework paragraph 115, and attracts great weight against the proposed development.

#### *Sustainable development*

15. It is a clear objective of the Framework to boost significantly the supply of housing, with paragraph 49 of the document stating "*...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...*". In considering this housing application within the context of the presumption in favour of sustainable development,<sup>1</sup> Framework paragraph 7 confirms there to be environmental, economic and social dimensions to sustainable development.

#### Economic

16. Developing a new home would result in some economic benefit through the economic activity associated with its construction and occupation. In accordance with Framework paragraph 19, economic growth through the provision of construction jobs and the sale of construction materials, and expenditure during occupation of the house, attracts significant weight in this case.

#### Social

##### Personal circumstances

17. Appeal documentation includes a 54 person petition that highlights the appellant has lived in the locality for almost 30 years and would like to stay in the community, but due to health and age issues the present home 'is

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<sup>1</sup> Including as described by Framework paragraph 14

becoming too challenging' and as a consequence, the appeal proposal is sought.

18. The Grounds of Appeal: note that the appellant needs to live in a less isolated location, whilst remaining in the local area; and refer to Planning Practice Guidance in relation to *Housing for older people*.<sup>2</sup> It is not evident why the range of existing market housing in Pulverbatch would fail to meet the appellant's needs, or to what extent this option has been explored by the appellant. In the absence of this, it is not apparent that the appeal scheme would be a small scale development that would maintain the vitality and support the development of sustainable rural communities. Indeed, it may be possible and preferable to have such development within areas outside the AONB.

#### Provision of land for housing

19. The appeal proposal concerns countryside, rather than Green Belt land. Both the wording and structure of CS policy CS5 clearly distinguish between countryside, and the additional controls in relation to Green Belt land that are the subject of a distinct and separate section of the policy. Therefore, CS policy CS5 would be a relevant policy to this case for the supply of housing in relation to development in countryside that is not Green Belt land. Matters listed in CS policy CS5 as improving the sustainability of rural communities by bringing local economic and community benefits do not include new open market housing on green field sites.
20. The Council's position within the Officer Report on the application was 5.47 years housing land supply, and existing (CS) planning policies for the supply of housing are not out of date.<sup>3</sup> Appeal documents include an update for the Five Year Housing Land Supply Statement for the end of November 2014 following the Examination Hearings in relation to the Council's Site Allocations and Management of Development (SAMDev) Plan. The update Statement concludes there to have been 5.43 years housing land supply in late November 2014 and explains how this was derived.
21. Appended to the Grounds of Appeal is a paper, dated 24 November 2014, which questions the Council's calculation of its 5 year housing land supply. This, for example, notes: differing approaches to whether adopted and national planning policy seeks a phased or annualised approach to housing requirement; there to be a 30% non-delivery rate of housing permissions in the north that is approximately three times that elsewhere in the Council's area; sites have been included in the Council's housing land supply that have a resolution to grant planning permission subject to planning obligations being entered into; the Council's approach updates only supply figures, rather than requirement at the same time; and, the nature of remaining objections expressed at the SAMDev Plan Examination Hearings. While the Examination Inspector may have commented on national policy during a hearing, no report is referred to regarding the conclusions drawn from the hearings.
22. Attention has been drawn to the Church Pulverbatch Parish Plan (2012), in relation to which 68% of respondents were noted to have answered 'Yes' or

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<sup>2</sup> Reference ID: 2a-021-20150326

<sup>3</sup> Paragraph 6.1.4 of the Council Officer's report on the application refers to the Council's Five Year Housing Land Supply Statement of 12-Aug-14

'Maybe' in favour of new housing over the next ten years, with support for new houses as in-fill or on the edge of settlements.<sup>4</sup> As noted above the proposal would be on the edge of this settlement, but slightly apart and distinct from its characteristic form. Indeed, in objecting to the appeal proposal the Parish Council highlighted its objection, and the weight of expressed opinion against the scheme.

23. The evidence in this case is not clear in relation to whether the Council has a 5 year supply of deliverable sites for housing. This is reflected in the Grounds of Appeal from December 2014, which state that *Shropshire Council's 5 year housing supply is at best marginal and currently subject to robust argument*. However, there is no ambiguity regarding the appellant's subsequent final comments, which are that the Council cannot demonstrate a 5 year supply of deliverable sites for housing.
24. In any event and regardless of the position in relation to housing land supply, and therefore the weight attributed to CS policy CS5, in this case CS policies CS17 and CS6 carry the full weight of adopted development plan policies. The weight the appellant seeks to place on the Parish Plan is considered within this context, and other considerations which include the Framework.
25. The appeal scheme would contribute toward boosting the supply of housing, which is specifically identified as a matter relevant to the social role of sustainable development.<sup>5</sup> In doing so it would only provide one dwelling, but the resulting social benefits nonetheless provide considerable weight in favour of the proposal.

#### Service provision

26. The appeal site is noted to be 6 miles to the south west of Shrewsbury. The proposed dwelling would be a short walk from bus stops in Pulverbatch, which are downhill from the appeal site.<sup>6</sup>
27. The bus service from Pulverbatch connects to other villages in the area and the shops and services within Shrewsbury. The service is noted to provide 7 buses per day in each direction, with no evening or Sunday service.<sup>7</sup> Local convenience stores, post offices, a village hall, public houses and a primary school are noted to be available en-route to Shrewsbury. Nevertheless, anyone resident within the proposed dwelling would have to travel for shops and services, and if this were to be by bus it would be dependent on the continuation of the service. If the resident were not to travel out of Pulverbatch, the shops and services would need to be provided to them within the village. In these respects, the proposed dwelling would be an isolated rural home, even though it would be next to an established settlement.
28. The internet is increasingly one of the means by which rural communities can be connected to shops and services. While this may assist someone with reduced mobility, or without personal transport, that person would remain remote from many of the services on which they reasonably would be expected to rely.

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<sup>4</sup> The Parish Council notes there to have been a 55.4% response rate

<sup>5</sup> Framework paragraph 7

<sup>6</sup> Section 2.0 of the Grounds of Appeal estimate the closest bus stop to be 400 feet (which is approximately 120m) from the site entrance

<sup>7</sup> Paragraph 6.2.2 of the Council Officer's report on the application

29. It is the local planning authority's view that the gradient between the bus stops and the appeal site would be challenging for someone in ill health. The gradient is not particularly steep, but it may be off-putting to someone with reduced mobility.
30. The appeal proposal would be expected to support services within neighbouring villages. However, any occupier of the appeal proposal would have a choice of service centres, and especially if these were to be convenient as part of a travel pattern to work, school or other frequent destination. Such circumstances would be likely to reduce the potential benefit of the appeal scheme to services in the vicinity of Pulverbatch. Consequently, the likely level of support associated with the occupation of a single dwelling would only provide limited weight in favour of the proposal.

#### Environmental

31. Paragraph 7 of the Framework is clear that the environmental role of planning should contribute to protecting and enhancing the natural, built and historic environment, and using natural resources prudently. There is arable farmland in the area, and while the Officer's report on the application notes the appeal site to be Grade 3 agricultural land, it does not indicate the site to be best and most versatile agricultural land, the economic and other benefits of which Framework paragraph 112 indicates account should be taken of.
32. However, the appeal scheme would construct a new dwelling in a location that reasonably would be expected to require the use of additional resources for travel to shops and services, and this attracts significant weight against the proposal. Also, in this location the consideration of the environmental role of sustainable development must take into account the great weight against the appeal scheme that results from the failure to conserve and enhance the natural beauty of the area.<sup>8</sup>

#### *Other matters*

#### Suitability of the site access

33. The highway outside the appeal site is a narrow rural road. Observed traffic levels reflected this, and the quiet character of the settlement.
34. The Highway Authority raised no concerns regarding the proposed location and use of the site access. Its siting and design would provide suitable visibility splays for the nature of the road and traffic conditions on this approach to Puvlerbatch. The site is of sufficient size for the layout to enable vehicles to enter and leave the proposed access in a forward gear. Concerns have been raised regarding the width of the site access which would appear to allow a two way flow of vehicles from the development, but it does not include turning radii on either side which, given the narrowness of the road, would reduce the effective width of the access. In any event, it would be an adequate width for the development that is the subject of this appeal.
35. Given the nature of the highway and the traffic movements along the road and at the junction outside the appeal site, the proposed access would provide a safe and suitable means of entering and leaving the development.

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<sup>8</sup> As confirmed by Framework paragraphs 14 and 115

### Precedents

36. Attention has been drawn to the Council's determination of planning applications 14/03338/OUT and 14/01951/OUT. Full details have not been provided regarding these developments, and it has not been adequately explained why they would be relevant to this appeal. In any event, each application and appeal is considered on its own merits. Consequently, the determination of planning applications 14/03338/OUT and 14/01951/OUT, and the recent construction of other dwellings in the locality, do not set a precedent in relation to the appeal scheme.

### Planning obligations

37. The Council Officer's Report on the proposed development notes CS policy CS11 to address contributions toward affordable housing, which would have been £13,500 in this case. Between the determination of the planning application and the lodging of the appeal, a Written Ministerial Statement regarding *Small-scale Developers* was released on 28 November 2014. It is now reflected in Planning Practice Guidance in relation to when contributions for affordable housing should not be sought. These include from developments of 10-units or less, except in designated rural areas such as an AONB where the local planning authority has decided to apply a lower threshold of 5 units or less.<sup>9</sup>
38. The appeal documentation includes an unexecuted unilateral undertaking in relation to the proposed development. The Council has not submitted an appeal statement in this case, and in completing the appeal questionnaire it makes no mention of CS policy CS11 as a relevant development plan policy in regard to this appeal. The Council's *Type and Affordability of Housing Supplementary Planning Document* (SPD) has been supplied, which includes extracts from CS policy CS11. Both the CS and SPD were adopted prior to the Written Ministerial Statement and the associated Planning Practice Guidance.
39. The appeal scheme is below the relevant national policy threshold for contributions toward affordable housing. Within the context of the development proposed, Planning Practice Guidance referred to above and national policy as set out within the Written Ministerial Statement are considerations that indicate in this instance a decision should be made other than in accordance with CS policy CS11.

### **Conclusion**

40. Nevertheless, the appeal scheme also conflicts with CS policies CS5, CS6 and CS17 and related parts of the Framework. CS policy CS17 addresses: the AONB and matters relevant to specific Framework policy that seeks to restrict development within such a designated area; and CS policy CS6, which supports CS policy CS17 through its relevant provisions. Accordingly, and regardless of the position in relation to housing land supply, CS policies CS17 and CS6 carry full weight in this case.
41. Matters that weigh in favour of the appeal proposal, including the scope of possible planning conditions, have been found not to outweigh the great weight attributed to the identified harm, failures and policy conflict. The adverse impacts of allowing the appeal would significantly and demonstrably outweigh

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<sup>9</sup> Planning Practice Guidance reference ID: 23b-012-20150326

the benefits when assessed against the policies of the Framework taken as a whole. The proposal would not be a sustainable form of development and therefore, the appeal should be dismissed.

*Clive Sproule*

INSPECTOR