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# Appeal Decision

Site visit made on 12 May 2015

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

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

**Decision date: 21/07/2015**

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**Appeal Ref: APP/L3245/W/15/3003552**

**Land south of Netherton Farm Cottages, Netherton Lane, Highley, Shropshire WV16 6NJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Andrew Maiden against the decision of Shropshire Council.
  - The application Ref 14/02212/FUL, dated 15 May 2014, was refused by notice dated 31 July 2014.
  - The development proposed is the erection of 2 No. 3 bedroom semi-detached dwellings.
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. One of the Council's objections to the proposal relates to the absence of a planning obligation towards affordable housing. The appellant has not submitted a section 106 agreement to address this matter. In November 2014, the Government announced changes to its Planning Practice Guidance. Further updates on 27 February 2015 make clear that the changes to the planning guidance were changes to national policy. Among other things, those changes advise that contributions towards affordable housing should not be sought from small-scale developments of ten units or less. The parties were given the opportunity to provide comments on these changes. I have taken the comments made into account in coming to my decision, as well as the amended guidance itself.
3. Following the deadline for the submission of its statement and comments sought in relation to affordable housing the Council submitted additional information. In relation to the Site Allocations and Management of Development (SAMDev) Plan the Council wrote to advise that the examining Inspector's schedule of main modifications was published on 1 June 2015. Regarding affordable housing provision, the Council made reference to a recent decision. These are material changes in circumstance that are directly relevant to the appeal. As a result, this information and the comments of both parties that were received in relation to it, has been taken into account in the determination of this appeal.

## Main Issues

4. The main issues in this appeal are;

- whether the housing proposal would comply with the development plan in terms of its location and its effect on the character and appearance of the area; and,
- whether the proposal would be a sustainable development and the extent of housing land supply in the County.

## **Reasons**

### *Location*

5. The appeal site is on the edge of a number of buildings associated with Netherton Farm which collectively form a hamlet. Netherton and the appeal site are located a few hundred metres away as the crow flies from the development boundary of Highley contained within the Bridgnorth Local Plan. As a result, for planning policy purposes the appeal site is located within the open countryside. Policy CS5 of the Shropshire Core Strategy strictly controls new housing within the open countryside. As the proposal would not be for agricultural worker's dwellings or to provide affordable housing it would be contrary to this policy. Its location would therefore be contrary to the development plan.
6. The policies of the Local Plan that relate to new housing in rural areas were formulated 19 years ago. The National Planning Policy Framework ('the Framework') is an important material consideration. Paragraph 215 of the Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The Framework seeks to promote sustainable development in rural areas whilst protecting the countryside. In identifying the limits to a settlement beyond which countryside policies will apply the approach of the Local Plan is broadly consistent with the approach of the Framework.
7. Paragraph 55 of the Framework provides specific guidance in relation to the sustainable development of new housing in rural areas. It advises that new housing in such areas should be located where it can maintain or enhance the vitality of rural communities. Planning Practice Guidance (PPG) recognises that this should be considered at a strategic level and through the Local Plan process<sup>1</sup>. The approach of policy CS4 of the Core Strategy and the Site Allocations and Management of Development (SAMDev) Plan, identifying Community Hubs and Clusters in rural areas where development is supported and strictly controlling development in the open countryside, is consistent with this approach.
8. The SAMDev Plan is at an advance stage on the road to adoption. Consistent with the existing development plan it places the area around Highley, including Netherton and the appeal site, within the open countryside. No main modifications have been recommended by the Inspector to the SAMDev Plan in relation to Highley and the countryside that surrounds it. Taking all these matters into account, in accordance with paragraphs 215 and 216 of the Framework, I therefore attach significant weight to the development boundary identified by the Bridgnorth Local Plan and the SAMDev Plan. Both place the appeal site within the open countryside.

### *Character and appearance*

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<sup>1</sup> paragraph 001, Rural Housing, PPG

9. The appeal site is agricultural land located on the south eastern side of the small cluster of buildings that form the hamlet. This cluster includes dwellings, barn conversions and agricultural buildings. The surrounding countryside is attractive and characterised by rolling fields of pasture and crops. The site forms part of a field and is open and free of built development. As a result, the appeal site and the storage of agricultural machinery on it contribute to the rural agricultural character of the area and the surrounding open countryside.
10. The proposed development of a semi-detached pair of dwellings with hard standing and garaging would encroach into the countryside and urbanise the site. The domestic paraphernalia associated with occupation of these houses would add to this urbanising effect. As a result, the proposed development would adversely affect the character and appearance of the countryside and the rural setting of the farm. The harm would be readily visible in views from the public right of way that has clear views of the appeal site along its long approach from the south east. This right of way would also pass directly in front of where the proposed dwellings would be.
11. The houses would be designed to reflect the traditional vernacular and in size and form would be in keeping with the neighbouring Netherton Farm Cottages. However, these design features would be insufficient to overcome the significant adverse effects that I have described.
12. For all of these reasons, I therefore conclude that the proposed development would demonstrably harm the character and appearance of the area, contrary to the objectives of policy CS5 of the Shropshire Core Strategy which seeks to protect the character and appearance of the countryside.

#### *Sustainable development*

13. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. 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.
14. In terms of the environment, I have found that the proposed development would demonstrably harm the character and appearance of the area. In terms of its location, the appeal site and the neighbouring dwellings are in an isolated location within the open countryside. Whilst the centre of Highley and the services and facilities that it has to offer is slightly less than a mile away by road, the road has no footway, is unlit and has blind bends. As a consequence, it would be unreasonable to expect future occupiers of the proposed development to walk or cycle into Highley. As a result, they would be dependant upon the private car to access services and facilities. The appeal site is therefore in a relatively unsustainable location for development.
15. The dwellings would use renewable energy in the form of solar panels and wood burning stoves. In terms of construction, as the houses would be built to meet current building regulations they would be energy efficient. However, as compliance with building regulations is a requirement of all new housing this is not a significant factor in favour of finding the proposal sustainable.
16. Socially, the provision of two new homes would make a small contribution to addressing housing need in the County. In relation to the economy, the construction of the houses and their fitting out would generate some

employment. Post completion the rent from the proposed houses would support the appellant's farming business. Paragraph 28 of the Framework supports such a scheme if it would constitute sustainable development. The slight increase in spending power in the area as a result of two additional households would assist local businesses in small way.

17. Nevertheless, these positive aspects of the proposal would not overcome the isolated car dependant location of the development, and the harm that would be caused to the character and appearance of the countryside. Both these negative features of the proposed development would continue long after the economic benefits of constructing the development have faded. I therefore conclude, based upon the overall balance of considerations, that the proposal would not be a sustainable development. The proposal would therefore be contrary to the Framework and policy CS6 of the Core Strategy which requires that all new development is sustainable.

#### *Housing land supply*

18. Where a five year supply of deliverable housing sites cannot be demonstrated paragraph 49 of the Framework states relevant policies for the supply of housing should not be considered to be up to date. There is clear disagreement between the parties as to whether or not such a supply can be demonstrated. The evidence that has been provided to me on this matter is inconclusive. Nonetheless, even if there is not such a supply, the contribution of the two dwellings proposed towards addressing this issue would not outweigh the harm to the character and appearance of the area and the fact that the proposal would not be a sustainable development. Having regard to paragraph 14 of the Framework, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits of the proposal.

#### **Other matters**

##### *Affordable housing*

19. The change in national policy, described as a procedural matter at the beginning of this decision, is an important material consideration. Notwithstanding the Council's vigorous support for policy CS11 of the Core Strategy which supports affordable housing contributions, and reference to the recent 'Vashlyn' decision, in my view, the changes in national policy outweighs the position of the development plan and other considerations raised in relation to this matter. I therefore find that the contribution sought towards affordable housing would not be necessary to make the development acceptable in planning terms. As a result, it would fail the tests of paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

#### **Conclusion**

20. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

*Ian Radcliffe*

Inspector