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## Appeal Decision

Site visit made on 24 May 2016

**by A J Mageean BA (Hons) BPI PhD MRTPI**

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

**Decision date: 22 June 2016**

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**Appeal Ref: APP/L3245/W/16/3145235**

**Land West of 52 Pear Tree Lane, Whitchurch, Shropshire SY13 1NQ**

- 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 M Rogers against the decision of Shropshire Council.
  - The application Ref 15/02011/FUL, dated 5 May 2015, was refused by notice dated 27 August 2015.
  - The development proposed is the erection of 1 No timber framed dwelling to include the provision of drive and associated landscaping.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Whilst the initial application being considered in this case referred to two dwellings, during the course of its consideration by the Council the proposal was reduced to a single dwelling as set out in the description of development above. I have considered the appeal on this basis.
  3. The address on the application form is given as a postcode only. Therefore, in the interests of accuracy, I have used the fuller version of the site address given on the appeal form.
  4. The Council has accepted that an amended site plan (SK01 Rev E) submitted by the appellant now matches the floor plans and elevations of the proposed dwelling previously submitted. Therefore the second reason for refusal in this case requires no further consideration.
  5. The Court of Appeal's judgement on 11 May 2016 [*Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council 2016*], means that contributions for affordable housing and tariff style planning obligations should not now be sought from small scale and self-build developments. In the light of this ruling the appellant has withdrawn a draft unilateral undertaking relating to an affordable housing contribution, and the Council has indicated that it will not be seeking such a contribution in this case.
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6. Since the determination of the application which is the subject of this appeal the Council has adopted the Site Allocations and Management Development Plan 2015 (the SAMDev). It is clear from the appellant's Statement of Case that they are aware of the status of this document. I have therefore determined the appeal on the basis of the national and local policies adopted at the present time.

### **Main Issues**

7. The main issues in this case are:
  - 1) Whether the proposal represents a sustainable form of development with particular reference to its location; and,
  - 2) The effect of the proposed development on the character and appearance of the area.

### **Reasons**

#### *Sustainable development*

8. The appeal site is located on land to the west of 52 Pear Tree Lane. It fronts onto this single track cul-de-sac and is currently open with some mature vegetation, particularly along its southern boundary. There is open countryside to the north, south and west of the site. A public footpath runs from north to south through the western side of the appeal site. To the east of the site there are a range of dwellings on either side of Pear Tree Lane. The proposed development would place a two storey three bedroomed dwelling and a detached garage on this site.
9. The Council's decision notice refers to this site being located in open countryside outside the development boundary for Whitchurch as defined by SAMDev Policy S18. Whitchurch is identified as a principal centre which will be the focus for future development. Policy S18.1 states that new housing development will be delivered primarily on the allocated housing sites identified alongside additional infill and windfall development within the town's development boundary. The explanation to this policy notes that if there is a recognised under-delivery of housing ahead of the end of the plan period (2026), there is available land adjoining the Whitchurch development boundary which offers suitable broad locations for housing. However the release of this land will only be acceptable towards the end of the plan period.
10. It is also relevant to consider SAMDev Policy MD3 which states that in addition to supporting the development of the allocated housing sites set out in settlement policies, planning permission will also be granted for sustainable housing development on windfall sites both within these settlements and in the countryside, particularly where the settlement housing guideline is unlikely to be met. Considerations relevant to this Policy also include the presumption in favour of sustainable development and the benefits arising from the development.
11. The appellant argues that the settlement target of approximately 1,200 dwellings for Whitchurch over the plan period will not be achieved without allowing development in the countryside. In this respect the appellant

notes that housing sites amounting to 733 dwellings are identified within the settlement boundary, leaving a balance of 467 to be met from windfall sites. However, in addition to allocated sites it is clear that Policy S18 allows for flexibility for development within the settlement boundary and recognises that further allowances for development outside this boundary may be necessary if it appears that these figures will not be met. I consider that at this stage it would be premature to judge whether the settlement guidelines figures are likely to be achieved.

12. Whilst the appellant states that this is an edge of settlement location, as it is clearly outside the development boundary for Whitchurch it must be considered to be in the rural area. Therefore Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev are relevant in this case. These policies seek to strictly control development in the countryside, with new development only being permitted where this improves the sustainability of rural settlements by bringing economic and community benefits. In this respect new housing is limited to that which is needed to house rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings.
13. In this case there is no suggestion that this development would provide for any specific local need. However, as the appellant notes that Pear Tree Lane has been the subject of a number of successful applications for infill development in recent years, it is relevant to consider the sustainability of this location for new development. Pear Tree Lane itself is a single track lane, which is without lighting or pavements in the vicinity of the appeal site. The appellant notes that the site lies approximately 0.5 miles from the A41 and the wider road network. It is also suggested that it is within walking distance of town centre services which are approximately 1.9km away. Whilst it is clear that Whitchurch itself as a principal centre would provide the full range of services and facilities to meet community needs, I do not consider that it would be realistic to expect residents in this location to walk this distance on a regular basis. I am therefore of the view that development in this location would inevitably lead to dependence on travel by private car.
14. I have also looked at the key elements of sustainability as set out in the National Planning Policy Framework (the Framework) at paragraph 7. I accept that this development would contribute to the expansion of the local population and therefore the vibrancy of the community. I also accept that there would be short term economic gain through the provision of construction jobs. There would also be some additional revenue generated for the local Town Council. I also note that the proposal would include ecological enhancements through the formalisation of the wetland area and the dwelling would be designed using eco-friendly technology such as rainwater harvesting. However, the environmental impacts generated by construction on a greenfield site and the need to travel by private car to access services and employment cannot be overlooked. This harm would outweigh the benefits identified.
15. Both parties have drawn my attention to other planning and appeal decisions in this area relating to housing development beyond settlement boundaries, including along Pear Tree Lane. Whilst there are differences between these

cases and this appeal, it is important to note that in determining such cases the adoption of the SAMDev now provides greater certainty in terms of the final wording of policies and the significant weight which should be attached to this document. Whilst the appellant argues that the Council acted prematurely in determining this case in accordance with SAMDev policies prior to the adoption of this document, as stated previously, this document now forms part of the policy context for the consideration of this appeal.

16. I conclude that this proposal does not represent a sustainable form of development with particular reference to its location. It would conflict with the Core Strategy Policies CS4 and CS5 and the SAMDev at Policies MD3, MD7a and S18 which seek to focus development and investment within market towns, community hubs and community clusters.

#### *Character and appearance*

17. The proposed development would be located on a site which, whilst having No 52 Pear Tree Lane directly to the east, has open countryside and has a public footpath directly to the west. The property itself would be of one and a half storey in appearance and would be constructed from a mixture of timber, weatherboarding and render. I note that the proposal has been amended from an earlier version which placed two dwellings towards the back of the site. In the present scheme the dwelling is placed closer to the road frontage.
18. The position of this dwelling closer to the highway would be more in keeping with the pattern of development along Pear Tree Lane and I accept that Pear Tree Lane has evolved through development along the road frontage. I also accept that the modest and traditional appearance of the dwelling would not be out of place in the context of the variety of buildings in the surrounding area. Nevertheless, the visual impact of a dwelling in this location on the rural landscape must be considered. The site itself is at a lower level than No 52 and would be somewhat screened from the Lane and views from the south by mature hedgerow. However, it would have a significant impact on views from the public footpath, clearly extending the built form of Pear Tree Lane to the west into what is presently an open rural landscape.
19. The appellant suggests that this development would be less prominent than other developments in the vicinity. However, from the details before me, it appears that these other developments are to the east of the appeal site and do not therefore extend built form into the open countryside in the same manner.
20. I have found on this matter that the proposed development would have a detrimental effect on the character and appearance of the rural landscape. It would therefore conflict with the Core Strategy Policies CS6 and CS17 which require that new development protects, conserves and enhances the natural environment, taking into account local context and character.

#### **Conclusion**

21. The appellant has made reference to a recent appeal decision (APP/L3245/W/15/3067596) in which the Inspector has concluded that the Council cannot demonstrate that it has a five year supply of housing land

because it does not know what its Full Objectively Assessed Need is. Reference is also made to paragraph 47 of the Framework and the requirement that local planning authorities should work to significantly boost the supply of housing. The Council considers that it does have a five year supply, notwithstanding the recent appeal decision, referring to other appeal decisions which have supported its case. In this current appeal there is insufficient information before me to come to a firm conclusion either way. However, even if the Council did not have a five year supply of housing land and relevant policies for the supply of housing were not considered to be up-to-date, this would not inevitably lead to the appeal being allowed. If the Council did not have a five year supply then I accept that the net addition of one house which could be delivered reasonably quickly would carry moderate weight in favour of the proposal.

22. However, as the proposal is located outside the development limits of Whitchurch it would not represent a sustainable form of development. Furthermore, I have found that it would have a harmful effect on the rural character and appearance of this area. Therefore the harm caused in this case would be significant and demonstrable, outweighing any moderate benefits.
23. For the above reasons, taking into account all other matters raised, I conclude that the appeal should be dismissed.

*AJ Mageean*

INSPECTOR