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## Appeal Decision

Site visit made on 25 March 2019

**by Alexander Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> April 2019**

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**Appeal Ref: APP/L3245/W/18/3210027**

**Eagles Inn, Harley Road, Cressage, Shrewsbury SY5 6DE**

- 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 David Poyner on behalf of Eagle Cressage Limited against the decision of Shropshire Council.
  - The application Ref 18/00483/FUL, dated 26 January 2018, was refused by notice dated 18 April 2018.
  - The development proposed is the erection of 4no. new dwellings and conversion of existing former Public House to form 2no. additional dwellings with associated car-parking and landscaping.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr David Poyner on behalf of Eagle Cressage Limited against Shropshire Council. This application is the subject of a separate Decision.

### Procedural Matters and Main Issues

3. Following the Council's determination of the application, a Bat Survey and a Great Crested Newt Survey were undertaken by Gerald Longley Ecological Consultants, dated 20 June 2018 and 16 May 2018 respectively. These surveys accompany the appeal submission. The Council confirm that they do not disagree with the conclusions of these surveys. Based on the evidence before, I find no reason to conclude otherwise.
4. In light of the above, the main issues are whether the site is a suitable location for housing, having regard to local and national planning policy; the effect of the proposal on the provision of local community facilities and services in the area; and, the effect of the proposal on the non-designated heritage asset.

### Reasons

#### *Location*

5. Policy CS3 Shropshire Council Adopted Core Strategy (CS) 2011 states that the Market Towns and other Key Centres will maintain and enhance their roles in providing facilities and services to their rural hinterlands and that balanced housing and employment will take place within the towns' development boundaries. Policy CS4 of the CS sets out how new housing will be delivered in

the rural areas by focusing it in Community Hubs and Community Clusters, which are identified in Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015. Policy MD1 of the SAMDev identifies those settlements that fall within a Community Hub or Community Cluster. Cressage is not identified as a development settlement within either Policy CS3 of the CS or Policy MD1 of the SAMDev and therefore, for the purposes of the development plan, the appeal site falls within the open countryside.

6. 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. However, the list is not exhaustive.
7. Policy CS5 is complemented by Policy MD7a of the SAMDev, which goes on to further state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, it seems to me that although Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy MD7a of the SAMDev does. As the proposal is for an open market dwelling the proposal would fail to accord with Policies CS5 and MD7a.
8. I acknowledge that Policy CS5 is based upon pre-Framework policy and guidance. However, this in itself does not result in the policy being out-of-date. Overall, I find no inconsistency between Policy CS5 and the Framework. Accordingly, I attribute it full weight.
9. In addition to allocated sites, Policy MD3 of the SAMDev also supports other sustainable housing development. Paragraph 3 of Policy MD3 goes on to state that where settlement housing guidelines appear unlikely to be met, additional sites outside settlement development boundaries may be acceptable. However, as set out in the first paragraph to the policy, it should not be read in isolation from other policies, including Policies CS2, CS3, CS4, CS5, MD1 and MD7a. There is no evidence before me of any housing guidelines that are unlikely to be met.
10. The Council is currently carrying out a Local Plan Review. Paragraph 33 of the National Planning Policy Framework (the Framework), states that local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years.
11. The appellant argues that as the Council are carrying out the review the development plan policies are therefore out-of-date and as such the proposal benefits from the 'tilted balance' set out at Paragraph 11 d) of the Framework. However, I do not agree with this argument. Paragraph 33 contains no explicit link to the 'tilted balance' set out in Paragraph 11 d). Moreover, Planning Practice Guidance (PPG) states that: "Policies age at different rates according to local circumstances and a plan does not become out-of-date automatically after 5 years. The review process is a method to ensure that a plan and the policies within remains effective. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Due weight should be given to relevant

policies in existing plans according to their consistency with the National Planning Policy Framework. It will be up to the decision-maker to decide the weight to give to the policies.”<sup>1</sup> Accordingly, PPG is clear that existing policies should not be considered out-of-date simply because a review has not yet been completed.

12. There is no dispute that the Council can demonstrate a 5 year supply of deliverable housing land. Furthermore, the policies of the development plan which are most important for determining the application are not out-of-date. Accordingly, the proposal does not benefit from the presumption in favour of sustainable development set out in paragraph 11 (d) of the Framework.
13. The village of Cressage has a number of services and facilities and has good transport links to larger settlements and therefore is in an accessible location. I acknowledge that there is the possibility that the village might form a defined development settlement within the development plan as part of the Local Plan Review. However, until such time, it must be considered against the current development plan, whereby Cressage is considered to fall within the open countryside.
14. I therefore find that the proposal would fail to accord with the Council’s housing strategy embodied in Policies CS3, CS4 and CS5 of the CS and Policies MD1, MD3 and MD7a of the SAMDev. In addition, it would fail to accord with the housing objectives of the Framework.

#### *Community Facilities and Services*

15. The appellant states that the existing public house building closed for business in 2015 and has since remained vacant. Prior to that it closed in 2008 for a period of two years and then reopened until 2015. It is argued that this demonstrates a limited demand and viability for the business. However, there is no evidence before me that these were the reasons for the closure of the business or of any marketing exercise to encourage its use to continue.
16. In the absence of any of this evidence, given that it is the only public house within a relatively large rural settlement, it seems reasonable to me it could be a viable business and provide an important community facility. Whilst I accept that the public house has not been open for business for some time, its lawful use remains as a public house and therefore a community facility, albeit not currently in operation.
17. I find therefore that it has not been demonstrated that there is sufficient justification for the loss of the community facility. As such, it is contrary to Policy CS8 of the CS, which seeks to protect and enhance existing community facilities.
18. The Council also cite paragraph 28 of the Framework. Whilst it states that non-strategic policies can include the provision of community facilities, it does not specifically preclude the loss of existing facilities. Accordingly, I find no conflict with this paragraph.

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<sup>1</sup> Paragraph: 064 Reference ID: 61-064-20190315

*Non-designated Heritage Asset*

19. The existing building is a substantial, 2/3 storey building set within a large open car park and is located on the junction of the A458 and the B4380. As a consequence of its scale and location, the building is a prominent gateway feature on entering/exiting the village. The appellant confirms that the building is approximately 150 years old. Whilst not statutorily listed, there is no dispute between the parties that the building is a non-designated heritage asset. I consider that its significance derives from the scale and positioning of the building and its historic association with the village.
20. The proposal includes the conversion of the existing building into two dwellings. The Council raise no objection on design grounds to this and, based on the evidence before me and the observations I made on site, I concur. The Council's concern lies in the proposed four detached dwellings.
21. Three of the dwellings would be sited in a linear pattern on either side of the existing building; two to the south and one to the north, on the corner of the junction. The fourth dwelling would be to the rear of the site.
22. The two dwellings to the south would be set back behind the forward building line of the existing building and the spacing between them would be generous. This would ensure that the existing building remains a key building in the streetscene on approach from the south.
23. However, the dwelling to the north would be on the corner of the junction of Sheinton Road and the A458 and although slightly set back it would be a prominent and dominant feature on entering the village from the north and west. As a consequence, it would compete with, rather than complement, the dominance of the existing building and therefore diminish its significance.
24. The existing stone wall on the corner of Sheinton Road and the A458 supports the historical importance of the existing building on the site and together with other boundary stone walls on each side of the junction they make an important contribution to the historic character of this part of the village. The proposed loss of this wall and replacement with a brick wall would further diminish the historical significance of the existing building.
25. The Council also raised concern regarding the lack of distinctive character on the two dwellings to the south. Whilst the dwellings would be modern in their design, they would have some features taken from the existing building, including a mix of facing materials, gable features and chimneys. Overall, I do not consider that their lack of distinctive character would be unacceptably harmful to the existing building or the streetscene.
26. Overall, I find therefore that the proposal would significantly harm the significance of the non-designated heritage asset. As such, it would fail to comply with Policies CS6 of the CS, which seeks to ensure that development protects, restores, conserves and enhances the built and historic environment. It would also fail to comply with Policies MD2 and MD13 of the SAMDev, which seek to ensure that development protects the historic context and character of heritage assets and their significance, including non-designated heritage assets. Furthermore, it would fail to comply with the design and historical environment objectives of the Framework.

## **Other Matters**

27. The appellant refers me to a number of schemes that the council have granted planning permission for. However, two of these schemes<sup>2</sup> were granted planning permission prior to the adoption of the SAMDev and at a time when the Council could not demonstrate a 5 year supply of deliverable housing land. Therefore, the policy context was markedly different to that which the current proposal is assessed against. With regard to planning permission ref 16/04489/FUL, the site already benefitted from planning permission for residential development and whilst the scheme increased the number of dwellings, the details of the Council's consideration of the scheme are not before me. Therefore, I cannot be certain that there are any direct comparisons with the current proposal that weigh in its favour.
28. Two of the proposed dwellings would be affordable units. Whilst the scale of the number of units is only small, it nevertheless is afforded moderate weight in favour of the proposal. The proposal would also make an effective use of previously developed land, although the Council makes a compelling case that as they can demonstrate a 5 year supply of deliverable housing land, it is not necessary to develop greenfield open countryside sites. Therefore, the weight I attribute in favour of the proposal to the redevelopment of the previously developed site is only moderate.

## **Planning Balance**

29. Section 38 (6) of the Planning and Compulsory Purchase Act, 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst the Framework is a significant material consideration, it does not change the statutory status of the development plan as the starting point for the decision and its primacy in the determination of planning applications. I find no conflict between the objectives of the Framework and the development plan and there is no evidence presented to me to demonstrate that the most important policies for determining the proposal are out-of-date.
30. The proposal would be located in an accessible location, provide affordable housing and make an effective use of previously developed land. However, I do not find that these matters, individually or cumulatively, outweigh the significant harm I have found in respect of failing to accord with the Council's housing strategy, the loss of a community facility and the harm to the non-designated heritage asset.

## **Conclusion**

31. For the reasons given above the appeal is dismissed.

*Alexander Walker*

INSPECTOR

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<sup>2</sup> LPA Ref 12/01206/FUL and 14/01895/OUT