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## Appeal Decision

Site visit made on 4 August 2020

**by K A Taylor MSC URP MRTPI**

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

**Decision date: 19 August 2020**

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**Appeal Ref: APP/L3245/W/20/3249584**  
**Silver Birch, Bolas Road, Telford TF6 6PN**

- 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 & Mrs Jones against the decision of Shropshire Council.
  - The application Ref 19/04912/FUL, dated 6 November 2019, was refused by notice dated 6 January 2020.
  - The development proposed is demolition of existing glass houses & construction of a live-work unit.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether, the appeal proposal would constitute an acceptable form of development with particular regard to the provisions of local and national policy in respect of the location of development.

### Reasons

3. The appeal site is a parcel of land and is located within the area of Ercall Heath, located outside of any identified settlement boundary and is therefore within the countryside. The land was a former agricultural nursery but now has an established lawful use of a garden associated with Silver Birch following a decision<sup>1</sup> under Section 191 of the Act<sup>2</sup>. The site is relatively flat, well screened with vegetation and trees from views and has the reminiscence of existing glass houses. These would be demolished in their entirety for the construction of the proposed development.
4. Policy CS1 of the Shropshire Local Development Framework Adopted Core Strategy (CS), 2011 sets out the Council's strategic approach to development. It advises that development will be located predominantly in community hubs and community clusters unless it meets Policy CS5. The areas are identified within Policy MD1 and Schedule MD1.1 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, 2015. Outside of those settlements, development will primarily be for economic diversification and to meet the needs of the local communities for affordable housing.
5. Policy CS4 of the CS requires that in rural areas, communities will become more sustainable by allowing development in community hubs and community

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<sup>1</sup> Ref: 15/00977/CPE

<sup>2</sup> The Town and Country Planning Act 1990

- clusters that helps rebalance rural communities. Housing is required to be of an appropriate scale, mix and sympathetic to the character of the settlement and ensuring market housing make sufficient contributions to improving local sustainability.
6. Policy CS5 relates to countryside and Green Belt development. It advises that new development will be strictly controlled in accordance with national planning policies including protecting the countryside. It sets out the exceptions, where proposals maintain and enhance the countryside vitality and character where they improve the sustainability of rural communities. This includes “*small-scale new economic development diversifying the rural economy, including farm diversification schemes*” and “*dwelling to house agricultural, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local need*”. The exceptions require applicants to demonstrate the need and benefit for the development and expects it to take place primarily in recognisable named settlements or be linked to other existing development and business activity.
  7. The appeal site is located within an area that does not fall within any identified settlement or the development boundary. It is also not part of any allocated development site, hub or cluster set out in the development plan. Whilst the appellants accept that the site is beyond any defined development boundary, they consider that the proposal for a live/work unit would support sustainable, innovative development creating economic diversity within the rural environment.
  8. Therefore, looking at whether it would fall within one of the exceptions. The appellant’s design and access statement<sup>3</sup> sets out that the live/work unit combines domestic accommodation with some form of commercial, office or workshop space at one location. It considers the primary benefit would be that the occupants can live and work without the need to commute. The need for the development states that the appellants have lived at Silver Birch for over 30 years and the existing property is now too large and they wish to downsize.
  9. Furthermore, they wish to re-locate a small business for testing, development and consultancy services for sauna and steam room products within the proposed live/work unit. This is currently carried out in premises at Wolverhampton. The appellants claim that they have been unable to locate to suitable business premises in the locality of the appeal site and therefore require an appropriately sized dwelling with a workshop/business space. Vehicle movements associated with the business would not be expected to exceed ten per week. However, I have not been provided with any substantive evidence of searches / land availability for comparison or the nature of trip generations of vehicles that would be required in connection with the business.
  10. Although, there are no specific individual policies within the CS or the SAMDev that relate to live/work units. CS Policy CS13 encourages home based enterprise, the development of business hubs, live-work schemes and appropriate use of residential properties for home working. Policy MD7a of the SAMDev permits dwellings to house essential rural workers where it meets certain criteria. It requires relevant financial and functional tests are met and that the cost of the dwelling can be funded by the business. The appellants

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<sup>3</sup> Design & Access Statement for Proposed Live-Work Unit, (Jennings Homer & Lynch) dated March 2019

have referred to PPS3, PPS4 and PPS7, however these were superseded by the National Planning Policy Framework (the Framework).

11. Nevertheless, in the absence of any specific policy it is appropriate to assess against the consistency with the Framework. Paragraph 77, in rural areas advises that planning policies and decisions should be responsive to local circumstances that reflect local needs. Paragraph 78 promotes sustainable development '*housing should be located where it will enhance or maintain the vitality of rural communities*'. Paragraph 79 sets out the circumstances where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Whilst, Paragraph 81 requires planning policies to support flexible working practices (*such as live-work accommodation*).
12. The evidence before me is limited on the exact details of the business requirements itself, including its functionality or justification of why it would need/required to be located within the countryside, outside of any settlement boundary. There appears to be no association to any existing development or other rural enterprises within the locality or wider area of Shropshire. Furthermore, I do not consider the nature of the business would be one that would be associated as part of the diversifying rural economy and would contribute to supporting the local rural community, including maintaining its vitality.
13. Moreover, there is no substantive evidence that the business requires a combined live/work unit to support its continuing growth or it is an essential need for the appellants to live/work together to support the daily needs of the business. Despite, the Council's delegated report setting out that there are net profits, I have not seen any evidence of this, and that the business could support the construction of the live/work unit and remain profitable thereafter.
14. I acknowledge that there would be some benefits including that the existing structures are unattractive, they do not provide or contribute to the rural setting and this would be improved by redevelopment of the site. The proposed development would also incorporate energy saving design and environmental features. Notwithstanding this, the appellants desire to downsize a property does not justify the need for a new dwelling in the countryside, albeit a live/work unit.
15. Economic benefits would arise from the reduction of the appellants journey times and the need to commute to Wolverhampton. However, this would be minimal as it would result in additional commercial vehicle movements to and from the site for the business. Furthermore, there is little in the way of day to day services and facilities within Eccles Heath. The appeal site is not served by public transport and there are no footpaths in place or street lighting to enable safe navigation by walking to access the services and facilities within Tibberton, approximately 2 miles away. As such, future occupants of the development would be largely reliant on the private motor car to access services and facilities.
16. However, the development would be located between existing properties along Bolas Road. Having had regard to the High Court judgement<sup>4</sup> regarding

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<sup>4</sup> Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

paragraph 55 (now paragraph 79) of the Framework, this physical location would not result in a new isolated home in the countryside that the Framework seeks to avoid. Thus, there would be no conflict with paragraph 79 of the Framework only in this regard. Despite this, there would still be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services. Moreover, there is no essential need demonstrated that the appellants need to live permanently at their place of work, or the business needs to be within a countryside location.

17. For the reasons given above, I conclude the proposal would not constitute an acceptable form of development within the countryside location. Consequently, the proposal would not accord with the aims of Policies CS1, CS4, CS5, CS6, CS10, CS13 of the CS, 2011 and Policies MD1, MD2, MD7a of the SAMDev, 2015, for the reasons already set out above, and that these policies seek to restrict development that fall outside of any settlement development boundary. Furthermore, these policies are consistent with the aims and objectives of the Framework, and as such the proposed development would be at odds with it.

### **Other Matters**

18. The appellants refer to a 2018 scheme in Wolverhampton, I do not have full details of the circumstances that led to the proposal being accepted, particularly as the site appears to be in the Green Belt. As such, I cannot be sure that it represents a direct parallel to the appeal proposal, including in respect of, location and development plan policy. I have also had regard to an appeal decision brought to my attention by a third party<sup>5</sup>, however this appears to relate to development in a community cluster unlike the appeal before me. In any case, I have determined the appeal on its own merits.
19. Although, there are no concerns raised in regard to ecology, trees, landscaping, highway safety/access, residential amenity and flooding. These do not outweigh the issues I have raised. In regard to the comments on the siting, scale and design of the live/work unit, given my findings in relation to the main issue, in regard to the proposal not being an acceptable form of development within the location it is not necessary to consider these matters in detail.
20. In regard to the engagement of the Council throughout the planning process, the beneficial use of the site, not meeting obligations to ensure a supply of varied residential or commercial properties including live/work units in Shropshire. I have not seen any substantive evidence to suggest that the Council has not been forthcoming.

### **Conclusion**

21. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
22. For the reasons given above I conclude that the appeal should be dismissed.

*K A Taylor*

INSPECTOR

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<sup>5</sup> APP/L3245/W/15/3009723