



## Appeal Decision

Site visit made on 13 January 2021

**by Thomas Hatfield BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> February 2021

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**Appeal Ref: APP/L3245/W/20/3260240**

**Playing field adjacent to previous village school, Caynham, Shropshire, SY8 3BJ**

- 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 Messrs Craig, Scott & Dene Trough against the decision of Shropshire Council.
  - The application Ref 19/03289/OUT, dated 16 July 2019, was refused by notice dated 2 July 2020.
  - The development proposed is outline application for the erection of 4 No self-build dwellings with garages.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline. In this regard, layout, and the means of access fall to be considered at this stage, whereas appearance, scale, and landscaping are reserved for future consideration. The Town and Country Planning (Development Management Procedure) (England) Order 2015 states that 'layout' means the way in which buildings, routes and open spaces within the development are provided, situated, and orientated in relation to each other and to buildings and spaces outside the development. Those matters therefore fall to be considered under this appeal.
3. A Unilateral Undertaking ('UU') has been submitted that commits the owner to provide 4 serviced plots to persons included on the Council's Self-Build Register. It also commits the owner to transfer land to Caynham Village Hall for use as a car park and a children's play area. The UU is signed and dated, and I have taken it into account in reaching my decision.
4. The site has been subject to a previous dismissed appeal decision<sup>1</sup> for housing development. I attach significant weight to the previous Inspector's findings, albeit that decision was published prior to the adoption of the Shropshire Site Allocations and Management of Development ('SAMDev') Plan (2015). The previous appeal scheme also did not propose self-build dwellings, or the transfer of land to form a village hall car park and a children's play area.

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<sup>1</sup> APP/L3245/A/14/2221002

## **Main Issue**

5. The main issue is whether the appeal site is in a suitable location for residential development with regard to its accessibility to services, facilities, and public transport, and the provisions of local planning policy.

## **Reasons**

6. The appeal site is located within Caynham, which is a small village located around 2 miles from the edge of Ludlow. It consists of a former school playing field that is largely surrounded by existing residential properties.
7. Caynham is served by a church and a village hall but otherwise contains very few services and facilities. In this regard, the nearest convenience stores and primary schools are some distance away in either Ludlow or Ashford Carbonel. Moreover, the route to those settlements is mostly along unlit country roads with no pedestrian footway that are subject to national speed limits. It is therefore unlikely that future occupiers would walk or cycle to these settlements on a regular basis, and to do so after dark would be dangerous. Access to public transport is also very limited, and the Council states that the village only benefits from one bus service per week. In these circumstances, I consider that the site has poor accessibility to services, facilities, and public transport. Accordingly, future occupiers would be heavily reliant on the use of a private car.
8. Paragraph 103 of the National Planning Policy Framework ('the Framework') states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. In addition, paragraph 78 of the Framework states that where there are groups of smaller settlements, development in one village may support services in a village nearby. However, I consider that the appeal site has poor accessibility even allowing for its rural location. Moreover, given the proximity of Ludlow, future occupiers would be likely to draw mainly on services and facilities there rather than in nearby villages.
9. Policy CS4 of the Shropshire Core Strategy (2011) states that in rural areas investment will be focused into identified Community Hubs and Community Clusters. The appeal site is not located within one of these settlements and is therefore in the countryside for planning purposes. In this regard, Core Strategy Policy CS5 and SAMDev Policy MD7a seek to strictly control new market housing development in the countryside. A number of exceptions are listed in these policies, none of which would apply to the appeal proposal.
10. The appellant is critical of the process by which Community Hubs and Community Clusters were identified through the preparation of the SAMDev Plan. However, that process was scrutinised by the examining Inspector, who concluded that it was sound. The identified Community Hubs and Clusters now form part of the development plan, and I see no reason to revisit this matter in the context of a planning appeal made under section 78.
11. My attention has been drawn to the High Court judgement *Braintree District Council v SSCLG & Ors* [2017] EWHC 2743 (Admin). However, that case related primarily to 'isolated homes in the countryside', as referred to at paragraph 79 of the Framework. In this regard, I acknowledge that the appeal site is located within the settlement of Caynham and is not physically isolated

from other properties. However, that does not alter my view that it has poor accessibility to services, facilities, and public transport.

12. The SAMDev Plan was subject to a Main Modification that committed the Council to an early review of the plan. The examining Inspector also commented that there was a high reliance on windfall sites. Whilst I understand that the Council is in the process of undertaking this review, it is currently at a relatively early stage of preparation. However, it is common ground that the Council is able to demonstrate a deliverable 5 year supply of housing sites, and so the policies most relevant for determining this application are not out-of-date in this regard.
13. SAMDev Policy S10 does not stipulate that the main housing sites in Ludlow be delivered in the first 5 years of the plan, and I note that the plan period runs to 2026. Moreover, the Council state that the housing guideline of 875 units for the Ludlow area has already been significantly exceeded in terms of completions and permissions granted. The Council has also exceeded its requirements under the recently published Housing Delivery Test figures. Accordingly, there is no persuasive evidence before me of any shortfall of housing sites or delivery in this area.
14. For the above reasons, I conclude that the appeal site is not in a suitable location for residential development with regard to its accessibility to services, facilities, and public transport, and the provisions of local planning policy. The development would therefore be contrary to Policies CS4 and CS5 of the Shropshire Core Strategy (2011), and Policy MD7a of the SAMDev Plan (2015) in this regard.

### **Other Matters**

15. The Council has a duty under the Self Build and Custom Housing Act 2015<sup>2</sup> to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to grant enough permissions to meet this demand. However, the extent to which the Council is meeting demand for this type of housing is disputed, particularly in the south of the county. Moreover, it is asserted that the development plan is out of date as it does not refer specifically to the provision of self-build or custom-build housing. I return to these matters in my Overall Balance and Conclusion, below.
16. Planning Practice Guidance relating to self-build and custom housebuilding was updated in February 2021. This re-iterates that demand established by the Council's self-build and custom housebuilding register is likely to be a material consideration in decisions involving such proposals. It further states that self and custom build dwellings help to diversify the housing market and increase consumer choice. I have had regard to this updated guidance in reaching my decision.
17. The submitted UU commits the owner to transfer land to Caynham Village Hall for use as a car park and a children's play area. In this regard, the current village hall has limited parking available to it and so this would be a clear benefit of the proposal. However, there is nothing before me to indicate that Caynham Village Hall has either the available funds or the willingness to develop a children's play area on this site, and to manage and maintain it

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<sup>2</sup> As amended by the Housing and Planning Act 2016.

thereafter. Accordingly, it is unclear whether the UU will deliver this benefit, and I therefore attach only limited weight to it.

18. It is asserted that the appeal site comprises previously developed land, as per the definition set out at Annex 2 of the Framework. However, whilst the former school building (now converted to a dwelling) and car park clearly comprise previously developed land, it is not clear that the rest of the site can be considered as such. In this regard, the former playing field consists of disused open land that does not form part of the garden area to the dwelling. Accordingly, it does not appear to fall within its curtilage. Moreover, there are no substantial structures located on it and it has an undeveloped character. However, even if I had come to a different view on this matter, it would not have altered my decision.
19. The proposed layout and access arrangements would result in the loss of a significant part of the hedgerow that currently runs along the south western boundary of the site. This is an attractive feature that contributes positively to the character of the area. Moreover, it is likely that any retained elements would be significantly cut back in order to improve visibility at the entrances to the properties.
20. Interested parties assert that the appellant has no right of access to the site from Caynham Court, which is a private road. However, rights of access are a civil matter that fall outside of the planning regime.

### **Overall Balance and Conclusion**

21. As set out above, I conclude that the development would be in an unsuitable location for residential development with regard to accessibility to services, facilities, and public transport, and the provisions of local planning policy. It would be contrary to the development plan in these respects. It would also result in the loss of part of an attractive hedgerow that runs along the south western boundary of the site.
22. Set against this, the development would provide 4 self-build dwellings for persons included on the Council's Self-Build Register. It would also provide a new parking area to serve the village hall and land for a children's play area, although for the reasons given above, I attach limited weight to the latter. Moreover, it would generate some economic benefits through the creation of employment and the purchasing of materials and furnishings.
23. In these circumstances, even if the 'tilted balance' at paragraph 11 of the Framework were engaged, and the shortfall in self-build housing were as significant as is alleged, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in my view. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
24. For the reasons given above I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR