



## Appeal Decision

Site visit made on 18 January 2022

by **J Williamson BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> April 2022

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**Appeal Ref: APP/L3245/W/21/3279519**

**1 Tudor Cottage, Roman Road, Leamoor Common, Wistanstow SY7 8DN**

- 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 Mr Simon & Mrs Jean Carless against the decision of Shropshire Council.
  - The application Ref 21/00008/OUT, dated 02 January 2021, was refused by notice dated 11 March 2021.
  - The development proposed is erection of one self-build dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal seeks outline planning permission with access applied for and all other matters reserved. I have considered the appeal on this basis. Therefore, for the avoidance of doubt, I have taken drawing Ref PL1 A as being illustrative only.
3. The description of proposed development given on the Council's Decision Notice differs to that provided on the planning application form. As I have not been provided with any evidence that the appellant agreed to the change of description, I have made my decision based on the description of proposed development given on the planning application form, which states that access is applied for.
4. The appellants statement contends that a section 106 agreement/unilateral undertaking is to be submitted with the appeal. However, I have not received any such document.

### Main Issue

5. The main issue is whether the site is a suitable location for residential development, having regard to relevant local and national planning policies and other material considerations.

### Reasons

6. The site consists of the northern half of the domestic curtilage of Tudor Cottage. It comprises a level grassed area with hard-standing and triple garage. There are hedges and trees along its boundaries and an existing vehicular access off Roman Road. This is where the proposed access would be, set-back a little from the carriageway edge.

7. Roman Road is a minor rural road, running between Wistanstow to the south, and through Leamore Common to Bushmoor to the North. The site is located on the western side of the road at the southern end of the hamlet of Leamore Common, positioned between Tudor Cottages and their associated gardens to the south and a neighbouring dwelling, Bridle Cottage, and its associated outbuildings and gardens to the north.
8. A collection of residential properties and their associated outbuildings are located along the western side of Roman Road, stretching from Tudor Cottages at the southern end to properties just north of Long Length Road, which is north of the site. Although the buildings are set-back at varying distances from the road, the dwellings and their associated outbuildings and gardens form a core, built-up strip of the hamlet of Leamore Common. For planning policy purposes, the site is located within the countryside and within the Shropshire Hills Area of Outstanding Natural Beauty.
9. The appellants seek to construct an open market dwelling as supported by current 'Right to Build' legislation<sup>1</sup>. Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy, 2011, (CS), outlines the strategic approach to development across the County. The strategy includes seeking to ensure that rural areas will become more sustainable through a rural rebalance approach, which includes accommodating around 35% of the area's residential development in rural areas over the plan period. Such development will be located predominantly within Community Hubs and Community Clusters.
10. Outside of Community Hubs and Clusters development will primarily be for economic diversification and for affordable housing to meet the needs of local communities. The designated Community Hubs and Clusters are outlined in Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan, 2015, (SAMDev), which reinforces the strategic approach to housing distribution outlined in Policy CS1 of the CS. The site does not lie within, nor is it close to, a Community Hub or Cluster.
11. Both parties note that the CS and SAMDev are currently being reviewed. The Council suggests that Wistanstow is proposed to become a Community Cluster in the emerging document, whereas the appellant suggests it is proposed as a Community Hub. Regardless of which it is, having regard to paragraph 48 of the National Planning Policy Framework, (the Framework), as I have not been provided with any details of the stage the review is at, whether there are any unresolved objections to policies, or the degree of consistency of emerging policies with policies in the Framework, I attach little weight to the emerging policies.
12. Policy CS4 of the CS also seeks to focus development within Community Hubs and Clusters, unless it accords with Policy CS5 of the CS. Any open market housing is required to make a sufficient contribution to improving local sustainability, via a mix of 'local needs' housing and community benefits in the form of contributions to affordable housing and identified local services, facilities and infrastructure. The proposed dwelling would make a very small contribution to local sustainability. However, it would not provide 'local needs' housing (which is essentially affordable housing), and no contributions to affordable housing or local services, facilities or infrastructure are proposed.

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<sup>1</sup> Namely, the Self-Build and Custom Housebuilding Act 2015, as amended by the Housing and Planning Act 2016

13. Policy MD7a of the SAMDev seeks to strictly control new market housing development outside of the County Town, Market Towns and Key Centres and Community Hubs and Clusters. The policy allows for conversions, change of use of holiday let properties, replacement dwellings, 'exception site' dwellings and dwellings for essential rural workers. I have not been provided with any evidence to suggest that the proposal constitutes either of these types of development.
14. Policy CS5 of the CS seeks to control development in the countryside. It allows for development on 'appropriate sites' that maintain and enhance countryside vitality and character, where such development would improve the sustainability of rural communities by bringing local economic and community benefits; 'particularly where they relate to' certain small-scale economic developments or dwellings for agricultural, forestry or other essential countryside workers and affordable housing to meet a local need. I have not been provided with any evidence to suggest that the proposed dwelling constitutes either of the types of residential development allowed for within Policy CS5, and the scale of the economic benefits arising from the proposal would be minor.
15. Policy CS11 of the CS outlines the approach to meeting the housing needs of the area to create mixed, balanced, and inclusive communities, which includes consideration of the type, tenure, and affordability of housing development. The proposal does not constitute any of the development types outlined in the policy.
16. For the reasons outlined above, I conclude that the proposal does not accord with policies CS1, CS4, CS5 and CS11 of the CS, or policies MD1 and MD7a of the SAMDev. Collectively, these policies seek to ensure that residential development is directed to the designated 'sustainable' areas, which are based on the range and extent of services and facilities available within them and the opportunities available for the use of sustainable modes of transport. The proposal would therefore undermine the adopted strategic and development management policies.

## **Other Considerations and Planning Balance**

### *Isolated homes in the countryside*

17. Paragraphs 79 and 80 of the Framework advise that housing should be located where it will enhance or maintain the vitality of rural communities to promote sustainable development in rural areas, avoiding, however, the development of isolated homes in the countryside.
18. I consider the addition of a dwelling within the rural community of Leamore Common, which is close to other rural communities of Wistanstow and Bushmoor, would make a minor contribution to maintaining the vitality of these rural communities. However, as the scale of the contribution would be limited, I therefore attach limited weight to this matter in support of the proposal.
19. The Council has concluded that the proposal would constitute an isolated home in the countryside. However, having regard to the judgement in the *Braintree*<sup>2</sup> case, given the siting of the proposed dwelling within the built-up strip of the hamlet of Leamore Common, I conclude that the proposal would not create an

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<sup>2</sup> *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610*

isolated dwelling in the countryside vis-à-vis paragraph 80 of the Framework. I therefore consider this factor provides moderate weight in favour of the proposal.

#### *Accessibility to services and facilities*

20. Given the very limited range of services and facilities available within the surrounding rural communities, I consider it highly likely that future occupiers of the proposed dwelling would rely primarily on the private motor vehicle, which is the least sustainable mode of transport, to access the range of services and facilities required to meet their day-to-day needs.
21. The appellants contend that Wistanstow, Leamore Common and Bushmoor share a public transport route. However, I have not been provided with any details of this service, for example how frequent the service is or its route. Consequently, I am unable to conclude that use of public transport as a means of travelling for the purposes of meeting day-to-day needs would be a feasible option for future occupiers of the proposed dwelling. I therefore attach little weight to this matter.
22. The nearest Market Town to the site that would provide a range of services and facilities to meet the day-to-day needs of future occupiers of the proposed dwelling is Craven Arms, which is around 3 miles away. As much of the route consists of country lanes with high roadside hedges and no footpaths or street lighting, I consider walking and cycling from the site to and from Craven Arms on a regular basis for the purposes of utilising the required services and facilities would be highly unlikely. Consequently, although I acknowledge that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, I consider the proposal would provide very limited opportunities to promote sustainable transport modes, which would be contrary to paragraph 110 of the Framework. This factor weighs heavily against the proposal.

#### *Self-build and custom housebuilding*

23. As noted, the proposed is for a self-build dwelling in accordance with relevant Right to Build legislation. The legislation allows for both open market and affordable housing. The appellants contend that such legislation is a material planning consideration in the determination of the appeal, which I accept.
24. The legislation requires local authorities to keep a register of those seeking to acquire serviced plots in the area for their own self-build or custom house building. The appellants accept that the Council has a register and therefore it satisfies this requirement of the legislation.
25. The legislation also requires the relevant authority to give enough suitable development permissions to meet the identified demand. The appellants contend that the Council are not meeting this requirement of the legislation, particularly in the south of the County.
26. The appellants state that they have been registrants on the Shropshire Council self-build register since 2020, and the only service plot they have been offered is a site for self-build in Shrewsbury, which is some 30 miles from their family and business. I have no reason to doubt this. However, I note that the planning application was submitted to the Council on 02 January 2021. I do not know when in 2020 the appellants joined the register. At maximum, if they

joined on the 1<sup>st</sup> January 2020 then they would have been on the register for 12 months at the time of submitting their planning application. The Council has 3 years from the end of each base period to provide permissions on suitable sites for registrants. Therefore, the appellants have not yet been on the list for the period the Council has to offer them a suitable site. As such, I attach little weight to this matter.

27. The Planning Practice Guidance (PPG) advises authorities to use the preferences expressed by registrants to guide their decisions, as this will assist in ensuring the sites which are given permission are ones that people are keen to develop. However, there is no duty on a relevant authority to permission land which specifically meets the requirements expressed by registrants<sup>3</sup>.
28. The evidence submitted by both parties regarding how many people or associations are on the register, and how many have been taken off the register since it began, is at best patchy, inconsistent, and not up to date. For example, the appellants Statement states that there are 94 outstanding registrants on the Councils register in the south of the County. However, their Planning, Design and Access Statement states that there are 47. When the Council were asked by the Planning Inspectorate during the appeal how many people had been taken off the register since it began, the reply provided was that it does not record such information.
29. Additionally, the Council states that the data it does hold regarding applications for inclusion on the register and planning permissions granted on suitable plots, has not been updated since 30 October 2020, due to the impact of the Covid 19 pandemic.
30. Nevertheless, the data the Council has provided suggests that between 14 January 2015 to 30 October 2020 it received a total of 576 applications to go on the register. During the same period, the Council granted planning permissions for 682 open market self-build and custom build plots, and 130 affordable self-build and custom build plots. Hence, these figures suggest that the Council granted more planning permissions for self-build and custom housebuilding than there were registrants during the period between 14 January 2015 to 30 October 2020.
31. I appreciate that the open market figure was identified via monitoring of applications for self-build relief from the Community Infrastructure Levy (CIL). However, the legislation does not specify how such permissions should be recorded. The PPG confirms that one of the acceptable methods is by identifying whether a CIL exemption has been granted for a particular development. Additionally, the PPG confirms that it is the responsibility of the relevant authority to ensure development permissions being counted meet the legislative requirements<sup>4</sup>.
32. For the reasons outlined, it is not possible for me to conclude that the Council is not meeting its obligation under the Right to Build legislation to provide planning permissions to meet the identified demand.
33. The appellants also contend that the Council has no specific policies to meet the requirements of the Right to Build legislation for open market housing across the area. Furthermore, they suggest that the SAMDev and CS are dated,

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<sup>3</sup> PPG Paragraph: 028 Reference ID: 57-028-20210508, Revision date: 08 02 2021

<sup>4</sup> PPG Paragraph: 038 Reference ID: 57-028-20210508, Revision date: 08 02 2021

that they were supposed to be up-dated early within the plan period, and that the Right to Build legislation came into effect after the adoption of the CS and SAMDev.

34. As noted above, the CS and SAMDev are currently being reviewed. I consider this to be the appropriate process for reviewing development plan policies, including consideration of the responsibilities of the Council with respect to ensuring the housing needs of people with specific housing needs, including self-build, are met.
35. Additionally, the Council is not required by the legislation to have specific policies for self-build; though they are required to have policies that seek to meet the differing housing needs of the area. As the current housing policies are consistent with policies in the Framework, I afford them full weight. Furthermore, as the appellants accept that the Council has a 5-year housing land supply (5YHLS) I conclude that the policies that are most important for determining the proposal are up to date. Therefore, paragraph 11 d) of the Framework is not engaged.
36. For the reasons outlined, I therefore attach limited weight to the fact that the proposal is for a self-build dwelling.

#### *Circumstances of the appellants*

37. The appellants believe that housing policies in Shropshire discriminate against older people such as themselves who wish to downsize and remain in the area within which they have lived for 40 years. I have not been provided with any substantive evidence that the Council's adopted housing policies discriminate against certain groups or individuals in the manner suggested by the appellants.
38. The appellants assert that they have strong community ties and local connections, having worked and operated a business in the area, and having been actively involved in committees of many local organisations. It is contended that they currently run an accountancy practice that serves many local clients and employs local people; and that a move out of the area may have a detrimental effect on the business and the services it provides within the rural community. The appellants contend that a self-build dwelling would allow them to remain in the area and continue the business. Although I do not disbelieve the claims, as I have not been provided with any substantive evidence to corroborate them, I attach limited weight to these matters.
39. The appellants also contend that there is no appropriate housing in the area which would allow them to meet their needs to downsize and to run an energy efficient home. They suggest that the proposed dwelling would be constructed using several environmentally low-impact methods and materials. However, I have not been provided with any substantive evidence regarding the local housing market and whether there are properties that would be suitable for the appellants. Additionally, as scale and appearance are matters to be determined at a later stage, I am unable to determine the extent of any environmental benefits in respect of energy efficiency that may ensue from the proposal. I therefore attach little weight to these factors.
40. The appellants note that although the Council can demonstrate a 5YHLS, the Framework advises that this is a minimum figure and that the Government's

intension is to significantly boost the supply of housing, which I acknowledge. However, the provision of one additional dwelling would make a very minor contribution to supporting this intension. As such I attach little weight to the matter.

#### *Other Appeal Decisions*

41. The appellants have drawn my attention to several other appeal decisions. However, as they relate to different areas of the country, and I do not have full details, I am not able to make any meaningful comparisons between them and the proposal before me.

#### **Conclusion**

42. Notwithstanding my conclusions regarding the proposal not being an isolated dwelling in the countryside and that it would make a small contribution to maintaining the vitality of rural communities, I have found that the proposal would cause other significant harms. Thus, it would undermine the strategic housing policies of the area and future occupiers of the proposed dwelling would rely on the private motor vehicle, the least sustainable mode of transport, to access the range of services and facilities required to meet their day-to-day needs.
43. Although the proposal is for a self-build dwelling, which is encouraged by Right to Build legislation, I am not able to conclude that the Council are not meeting its responsibilities regarding such legislation. Consequently, I can only attribute limited weight to the fact that the proposal is for a self-build dwelling.
44. I therefore conclude that none of the other considerations discussed outweigh the significant harms I have found and there are no considerations which lead me to conclude other than in accordance with the development plan. For the reasons outlined, I therefore conclude that the appeal is dismissed.

*J Williamson*

INSPECTOR