



# 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: 10 October 2022**

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**Appeal Ref: APP/L3245/W/21/3278244**

**Aston Top, Rock Cottages Junction to Wetmoor, Bache Mill SY7 9JX**

- 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 Rowbotham against the decision of Shropshire Council.
  - The application Ref 21/00983/FUL, dated 12 February 2021, was refused by notice dated 10 May 2021.
  - The development proposed is described as erection of 1 No. detached single storey residential property within the curtilage of Aston Top along with associated landscape.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The main parties agree that the proposal would create an isolated home in the countryside. Given that there would only be one other dwelling within proximity of the proposed dwelling, ie the host dwelling 'Aston Top', I agree with the conclusion reached by the main parties on this matter.
3. The appeal site is located within an area where local and national planning policies restrict new housing to specified categories. The proposal does not meet any of the exceptions provided for within development plan policies. However, the National Planning Policy Framework (the Framework) is an important material consideration that carries considerable weight. Paragraph 80 of the Framework advises that planning decisions should avoid isolated homes in the countryside, unless one or more of the circumstances listed in sub paragraphs 80 (a) to (e) apply.
4. Following submission of the appeal a revised Framework was published. The main parties were given the opportunity to comment on whether the revisions had any implications for the appeal. I have taken the comments received into account. I note that a key difference between paragraph 80 (e) of the latest iteration of the Framework and paragraph 79 (e) of the 2019 version, is that the words "*or innovative*" have been removed from the paragraph. I have determined the appeal having regard to the revised Framework.

## Main Issues

5. Considering the above and the evidence before me, the main issues are whether the design of the proposed dwelling would be of "*exceptional quality*", *vis a vis* sub paragraph 80 (e) of the Framework, and consequently whether the site is a suitable location for residential development, having regard to relevant local and national policies.

## Reasons

6. Paragraph 80 (e) of the Framework allows for the development of isolated homes in the countryside if

*"the design is of exceptional quality, in that it*

- *is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
- *would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area."*

7. The main parties agree that, for the proposal to be deemed to be of exceptional quality it must satisfy all the criteria outlined in sub paragraph 80 (e). I accept the appellant's contention that the proposal should be appraised holistically. I shall address the elements identified in sub paragraph 80 (e) as a way of informing my opinion of the proposal when viewed as a whole. I have had full regard to the input into the design process provided by the Design:Midlands Design Review Panel, (DRP), which considered the proposal met the requirements of what was paragraph 79 (e) of the 2019 Framework.
8. Therefore, initial key questions are: is the proposal truly outstanding, reflecting the highest standards in architecture? Would it help raise standards of design more generally in rural areas? Would it significantly enhance its immediate setting? Would it be sensitive to the defining characteristics of the local area?

### *The site and its context*

9. For planning policy purposes, the site is located within open countryside, on the southeast dip slope of Wenlock Edge in the Shropshire Hills Area of Outstanding Natural Beauty (AONB). I have a statutory duty<sup>1</sup> to have regard to the purpose of conserving and enhancing the natural beauty of AONBs. Additionally, the Framework advises that great weight should be given to conserving and enhancing landscape and scenic beauty in specified areas, including AONBs, which have the highest status of protection in relation to such issues.<sup>2</sup>
10. The site is 0.9 hectares in size and includes the existing dwelling, Aston Top (a converted red brick barn), its long, doglegged access drive, and a triangular shaped mown field. The field makes up most of the site area and is the land to which the proposal relates. It gradually slopes from its northern tip to its southern tip, with a difference of around 10 m in height between the highest and lowest points. Despite the field being maintained as a mown area, it has historically been in agricultural use. It replicates the open nature of the surrounding, historic agricultural field enclosure. Except for small areas to the rear and side of the existing dwelling, the site is bounded on all sides by mature hedgerows, with a small number of hedgerow trees interspersed along the site's eastern boundary.
11. The site is surrounded mainly by open fields in agricultural use, with woodland located beyond the west, north-west and northern boundaries of fields to the west and north of the site. As noted, it is isolated from other residential

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<sup>1</sup> Section 85 of the Countryside Rights of Way Act 2000 (CRoW)

<sup>2</sup> Paragraph 176 of the Framework

development, the nearest hamlets are Aston Munslow and Bache Mill, broadly to the east and south of the site respectively. The properties within these hamlets do not exhibit a single architectural style and a mix of materials are used on their external surfaces. Other built development within the area consists of individual farmhouses and associated agricultural buildings dispersed throughout the surrounding countryside. In my opinion, the proposed dwelling does not necessarily have to be like other properties in the surrounding landscape or the hamlets of Aston Munslow and Bache Mill to qualify as being a design of "exceptional quality".

12. A sunken lane (bridleway/Public Right of Way) passes the eastern boundary of the site, the edges of which comprise of mature native hedgerows and several mature hedgerow trees. I accept that the site and the proposal would barely be visible from most points within the surrounding area. However, during my visit I observed that there are existing gaps in, and less dense stretches of, the hedgerow along the eastern boundary of the site/western edge of the lane. These currently provide clear views from the lane over the open field to the isolated dwelling, Aston Top. Additionally, the north-western boundary hedge and the tree line beyond are visible from the gated access into the field north of the site, located off the lane north-east of the site.
13. The Shropshire hills are characterised by rugged and mostly bare-topped hills, mixed agricultural land in the intervening valleys and dales, and woodland areas located on ridges and small hills. The key components of the AONB are the hills (the main scarps and ridges comprising of the Stiperstones, Long Mynd, Stretton Hills & Wrekin, Clee Hills and Wenlock Edge), farmed countryside, woodlands, rivers and river valleys. Other special qualities include the area's geology, wildlife, heritage, and environmental & scenic quality. The surrounding Shropshire hills and landscape of the AONB provide the wider context within which the site is located.
14. With regard to its immediate context, the site lies within the 'Wooded Hills and Estate lands' landscape character type defined in the Shropshire Landscape Typology characterisation (SLT). It is also very close to the landscape character type area designated as 'Principal Wooded Hills'. The key aspects of the Wooded Hills and Estate lands landscape character type identified in the SLT characterisation are prominent, sloping topography; large discrete blocks of woodland; mixed farmlands, with field patterns largely ancient in origin, generally bounded by hedgerows; hedgerow trees that form canopy cover and in places create framed and filtered views; clustered settlement pattern of hamlets and villages, and medium-large landscape offering filtered views. The Principal Wooded Hills landscape character type features an interlocking pattern of large blocks of broadleaf woodland, and low-density dispersed development.

#### *The proposal*

15. In summary, the proposal consists of a single-storey, detached dwelling and associated landscaping. The dwelling would be sited towards the northern edge of the site, at its highest point. A sweeping driveway would wend its way from the bend in the existing access driveway to Aston Top, to the rear of the proposed dwelling, where an area of hard standing for parked vehicles and an internal garage would be located. A sunken area would be created which would act as a cold sink to provide cool air. The remaining area of the triangular field would be landscaped.

16. The footprint of the proposed dwelling would broadly be the shape of a reversed 'L' rotated 90 deg clockwise. A linear wall would form the spine of the building, with primary accommodation located in a pavilion style structure on the southern side of the spine, and service accommodation located on the northern side.
17. The design incorporates a range of passive and active sustainable technologies, to enable the property to operate independently of external services such as gas, electric, water and mains drainage.
18. The building would be partially cut into the landscape at the rear, thereby providing some thermal heat storage. The front, pavilion style structure would have a shallow, mono-pitched roof covered in standing seam zinc sheeting with integrated solar photovoltaic film to generate power for use in the property. The roof would overhang an external terrace at the front and side of the building; the overhang is designed to prevent overheating and minimise glare.
19. The rear section would have a flat, 'green roof', which would assist in managing rainwater run-off, provide additional habitat opportunities and help integrate the building into the landscape. The spine and elevations of the rear section would be constructed from locally quarried stone.
20. The front and side elevations of the front structure would comprise mainly of large, glazed openings, virtually floor to ceiling in height, to provide expansive views of the surrounding landscape from within the dwelling. The pillar-like sections of elevation between the glazed openings would be timber clad with locally sourced timber.
21. The proposal would include a ground coupled heat exchange system, to allow more sustainable heating and cooling of the property; and fenestration openings would be sited to allow cross ventilation.
22. The proposed landscaping forms an important part of the proposal. All existing boundary hedgerows and hedgerow trees would be retained; the hedgerows along the eastern and northern boundaries of the site would be strengthened. A new entrance point would be created, beyond which the sweeping drive would be laid. A variety of grasses and meadow plants would be planted across the site. Blocks of trees, including fruit trees, would be planted within various parts of the site. Several limestone exposure areas would be created. Drainage would be provided within the site's landscaped area.

### *Appraisal*

23. I acknowledge that the final design has been arrived at via an iterative process, with the broad aims of seeking to meet the client's brief as well as trying to create a dwelling that would be sympathetic to the characteristics of the site and its surroundings. I accept that the proposal meets the client's brief. However, I consider it does not create a dwelling that would be sympathetic to the characteristics of the site and its surroundings. I shall explain my reasoning below.
24. I accept that, within the context of the site and its immediate surrounds, the siting, size and massing of the proposed dwelling would ensure that the building would not be prominent within the landscape. It would also be orientated to maximise solar gain. The internal layout and fenestration design would be functional for future occupants, both in the immediate and longer

term, and it would maximise views out of the building over the site to the landscape beyond. The designated car parking area and garage would also ensure parked vehicles would not be prominent within the site.

25. However, it is fairly evident that a single-storey building with a low pitched/flat roof design, partially cut into the land, would be less prominent within the landscape than a building with more storeys and/or steep, dual-pitched roofs. Additionally, given that the site is an open field with no surrounding buildings or trees located such that sunlight would be significantly obstructed, I think the decision to orient the property as proposed, to maximise solar gain, is not a remarkable one. Furthermore, given that the proposed dwelling would be sited on the highest part of the site, with the land sloping away broadly to the south, I do not consider the inclusion of large window openings on the southern side of the building, to provide views from within the dwelling over the landscape, to be a particularly impressive design feature. Although it is commendable that the proposed car parking area and garage would be sited behind the property, again, I consider the concept is not one that warrants a high degree of praise.
26. To illustrate some of the views I have expressed above, I note that the existing dwelling, Aston Top, exhibits some features comparable to those proposed. For example, the property is sited close to the highest part of the site; it has its largest windows positioned on its southern facing elevations, and the hard standing area and garage are tucked away on the northern side of the property.
27. It is commendable that the proposed main external materials would be from within the area, thereby providing materials from the wider landscape within which the proposed dwelling would be located, as well as reducing CO2 emissions by minimising the distances materials would have to be transported. However, I do not consider the use of local materials, that are broadly relevant to the site's context, which would have been transported over relatively short distances, to be outstanding aspects.
28. It is also commendable that the proposal would include a range of sustainable design features and technologies to enable the property to operate independently of external services, thereby minimising the carbon footprint of the dwelling. However, the use of such features and technologies, which are a significant part of the design concept, is not uncommon these days.
29. I accept that the use of a green roof over part of the proposed dwelling would help integrate the building into the landscape, assist in managing rainwater run-off, and provide additional habitat opportunities. However, again, the use of green roofs on buildings is not rare.
30. It is asserted by the appellant that the planting layout and landscape design reflects the arrangement and patterns of vegetation found around the site and the wider landscape context. However, as noted above, the immediate surrounds comprise of open agricultural fields.
31. I accept that strengthening the hedgerows along the eastern and northern boundaries of the site and planting additional hedgerow trees would improve the visual quality of these boundaries, as well as the habitat opportunities afforded by them. However, retaining the existing hedgerows and hedgerow trees would not be an impressive achievement. Furthermore, the visual and habitat improvements that would result from additional hedgerow and

- hedgerow tree planting would be minor and could be achieved without the proposed dwelling being constructed.
32. The appellant suggests that a maintenance strategy for the site would minimise the level of mechanical mowing required, partly due to the grassland being managed through sheep grazing. It is also contended that the hedgerows and hedgerow trees would be better maintained. However, no details have been provided to demonstrate how sheep would graze the landscaped area in a manner that adheres to the defined areas shown on the proposed landscape plan. Neither has there been any explanation as to how or why the existing hedgerows and hedgerow trees would be better maintained than they are at present, should the proposed dwelling be constructed. Reducing the amount of mechanical mowing and planting additional grasses and trees could be carried out by the appellant without having to construct the proposed dwelling. Except for some existing gaps in, and less dense stretches of, the hedgerow along the eastern boundary of the site (as noted above), at the time of my visit the hedgerows and hedgerow trees appeared to be well maintained.
33. I accept that the ecological value of the site is currently negligible (though I note the supporting Habitat Survey concludes that this is a result of current management practice of regular mowing<sup>3</sup>). As such, I also accept that the proposed landscaping, along with the proposed green roof, would provide additional habitat, which would improve the ecological value and biodiversity of the site. However, the extent of such enhancements is not quantified in the evidence. In my opinion, the nature and extent of such enhancements would not be substantial.
34. Considering all the above, I disagree with the conclusion reached in the appellant's Landscaping Assessment & Development Statement, ie that the proposed treatment of the site would retain its open feel/sense of openness. Except for a few beehives, the site is currently devoid of any built development. Although the proposal would not be visible from most points within the surrounding landscape, even with strengthened hedgerow and hedgerow tree planting, at minimum there would still be filtered views of the building and associated landscaping from the lane to the east of the site. The existing open views across the site to Aston Top would no longer exist; and the site would no longer appear as an open field that replicates the open nature of the surrounding, historic agricultural field enclosure. It would become a domesticised, residential site.
35. The site would also be visible to all visitors (such as family, friends, and delivery staff) to the resultant new dwelling and the existing dwelling, Aston Top. Additionally, as the upper part of the northern facing elevation and the chimney would extend above the north-western hedgerow boundary, the proposed dwelling would be visible from a section of the lane north-east of the site; and it would be visible to farm workers managing the field north of the site. The existing uninterrupted view over a field boundary hedgerow with woodland beyond would no longer be uninterrupted.
36. In addition to the presence of the building itself, users of the lane to the east of the site would, at times, be conscious of the building's presence due to domestic noise emanating from the site, created by future occupants when using the outdoor terrace/seating/entertainment area around the property.

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<sup>3</sup> Section 7, Conclusion, of the Extended Phase One habitat Survey, Arbour Vitae, April 2017

Such noise would disrupt the existing tranquil nature of the site and immediate surrounds. Additionally, although it is suggested that external lighting would be kept to a minimum, with the large, glazed openings on the southern elevation, it is likely at times that internal lighting would make the property more visible within the site.

37. I accept that the proposed landscaping would provide some enhancements. However, again, I consider the nature and extent of such enhancements not to be substantial.
38. Considering the proposal as a whole, for the reasons outlined, I am not persuaded that the design is truly outstanding or that it comprises the highest standards in architecture. I do accept that the proposal would be designed to a high standard. I also conclude that the proposal would not be sensitive to key defining characteristics of the local area, nor do I think it would significantly enhance its immediate setting.
39. Taken as a whole, I consider the proposal would harmfully alter the character and appearance of the site, from that of an open field synonymous with the surrounding historical field patterns, to that of a domesticised residential plot. Such a change would damage one of the most important characteristics of the site and its immediate surrounds; as such, it would erode the scenic beauty of the immediate landscape within which it is located and the wider landscape of the AONB.
40. I therefore conclude that the standard of design does not reach the very high bar of being of "*exceptional quality*". Consequently, the proposal does not satisfy sub paragraph 80 (e) of the Framework, and therefore the design of the proposal does not justify allowing an isolated open market dwelling in the countryside that would be contrary to policies CS1, CS4, CS5, CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy, 2011, (CS), and policies MD1, MD3, MD7a and S7 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, 2015.
41. Collectively, and among other things these policies seek to direct residential development to areas identified within the development plan and control the construction of homes within the countryside in accordance with national planning policies. They require development to respect local distinctiveness, protect, conserve, or enhance an area's character and appearance, including the natural environment and the landscape of the AONB. Additionally, the proposal does not adhere to policies in the Framework that seek to protect and enhance valued landscapes and the intrinsic beauty of the countryside; nor does the proposal adhere to the statutory duty of the CRoW placed on me, ie to protect and enhance the natural beauty of the AONB.

### **Other Considerations & Planning Balance**

42. Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The appellant has suggested the following considerations justify determining the proposal not in accordance with the development plan.
43. The appellant suggests that paragraph 11 of the Framework, which requires decisions to apply a presumption in favour of sustainable development, is engaged, and that permission should be granted as any adverse impacts

- resulting from the proposal would not significantly and demonstrably outweigh the benefits. However, I disagree with the suggestion that paragraph 11 is engaged.
44. Sub paragraphs 11 c) and 11 d) are the relevant paragraphs with regard to decision-taking; 11 c) advises that development proposals that accord with an up-to-date development plan should be approved without delay; or, with regard to 11 d), where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, permission should be granted unless: i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
45. I have concluded above that the proposal does not accord with development plan policies; therefore, paragraph 11 c) does not apply. I have not been provided with any evidence to suggest that there are no relevant development plan policies, or that the policies which are most important for determining the application are out of date. Consequently, paragraph 11 d) is not engaged. Nevertheless, the planning balance required by s38(6) of the Planning and Compulsory Purchase Act 2004 still needs to be undertaken.
46. The appellant contends that the quality of design is of exceptional quality and therefore this should attract significant weight in support of the proposal. In contrast to the conclusion reached by the appellant, I have concluded that the design is not of exceptional quality. I consider it to be of high quality. Policy CS6 of the CS requires, among other things, development to be designed to a high quality. Paragraph 126 of the Framework advises that the creation of high quality, beautiful buildings is fundamental to what the planning process should achieve; and that good design is a key aspect of sustainable development. Hence, high quality design is a requirement of local and national planning policies. As such, I cannot attach any additional weight to the consideration of design in support of the proposal. I attach limited weight to the matter of sourcing materials locally.
47. The appellant contends that the proposal constitutes sustainable development and that this is a matter that should attract significant weight. The Framework advises that achieving sustainable development means that the planning system has 3 overarching objectives: economic, social, and environmental.
48. With regard to the economic benefits that would be derived from the proposal, although there would be some from the phase of construction and future occupants contributing to the area's economy, the scale of such benefits would be minor. As such, I attach limited weight to this aspect.
49. The proposal would provide an additional dwelling and it would enable the current occupants of Aston Top to remain within their existing residential environment. However, one dwelling would be a very minor contribution to the housing needs of the area. Additionally, it has not been demonstrated that the only way the appellants would be able to remain in the area is by constructing the proposed dwelling. I therefore attach limited weight to these matters.
50. The proposal would include a range of passive and active sustainable technologies. Although Policy CS6 of the CS refers to a checklist within a



Sustainable Design SPD, I have not been provided with such details. Notwithstanding the broad requirements of local and national planning policies, I consider the combined range of active and passive sustainable technologies within the proposal exceed the usual range and extent proposed in new developments. As such, I attach significant weight to this aspect of the proposal.

51. The proposed landscaping and green roof would provide some landscape and ecological enhancements. However, policies CS6 and CS17 of the CS require all development to protect, restore, conserve, and enhance the natural environment. Paragraph 174 of the Framework advises that planning decisions should contribute to and enhance the natural and local environment by, among other things, protecting and enhancing valued landscapes, and by providing net gains for biodiversity. Also, as noted above, paragraph 176 advises that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.
52. I have concluded above that neither the landscape nor the ecological enhancements would be substantial. Within the context of the site, ie Wooded Hills and Estate lands landscape character type and AONB, given that local and national policies require such enhancements I do not attribute any additional weight to such aspects in support of the proposal.
53. Bearing in mind the other considerations outlined, I consider that they neither individually nor collectively outweigh the substantial harm to the immediate and surrounding landscape I have identified.

### **Other Matters**

54. The appellant has indicated that he is happy to agree the requisite affordable housing contribution through either a Unilateral Undertaking (UU) or a Section 106 Agreement (S106). Although neither a UU nor a S106 Agreement has been submitted, as I am dismissing the appeal for other substantive reasons there has been no need to pursue this matter. Furthermore, even if such a document had been provided, it would not have altered my Decision.

### **Conclusion**

55. Considering all the above, I conclude that the proposal does not accord, as a whole, with policies in the development plan. Furthermore, there are no other considerations, including policies in the Framework, that 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