



# Appeal Decision

Site visit made on 24 November 2022

**by L Hughes BA (Hons) MSc MRTPI**

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

**Decision date: 19 December 2022**

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**Appeal Ref: APP/L3245/W/22/3304346**

**Land to the east of The Moors View, Diddlebury, Shropshire SY7 9JN**

- 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 Adrian and John Wilks against the decision of Shropshire Council.
  - The application Ref 22/01216/OUT, dated 10 March 2022, was refused by notice dated 10 May 2022.
  - The development proposed is the erection of 2 detached and 1 pair of semi-detached dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The address in the banner heading above is taken from the appeal form rather than the application form, as it provides a more accurate description of the site location.
3. The application is in outline with all matters reserved for future consideration. I have had regard to an illustrative proposed site layout.

## Main Issues

4. The main issues are:
  - whether the proposed development is in a suitable location for housing, having regard to the local development strategy for the area;
  - the effect of the proposed development on the setting of the Grade II listed Bache Mill House; and
  - the effect of the proposed development on the protected species of great crested newts.

## Reasons

### *Suitable location*

5. The appeal site is located within the corner of an agricultural field, bounded on 2 sides by the rear gardens of dwellings along The Moors, and the verge beside The Moors View carriageway. The field has housing to 3 sides, and further fields and garden land to its fourth.

6. The proposal is to erect 4 market dwellings, plus the indicative plan also identifies part of the site as a play area. Although outline permission is sought, the dwellings would need to be accessed via The Moors View.
7. The Shropshire Local Development Framework Core Strategy (CS) (2011) policy CS1 sets out the overarching settlement hierarchy for new development. In relation to Shropshire's rural areas, policies CS1 and CS4 specify that the rural settlement focus for new development and investment will be predominantly in Community Hubs and Community Clusters. The Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) policies MD1, MD1.1, S7.2, and S7.2(ii), list those Community Cluster settlements in Diddlebury Parish. The rural rebalance approach referenced in CS policy CS1 for rural areas to accommodate around 35% of Shropshire's residential development, is addressed within the rest of that policy and others, through the different housing allocation amounts for each area based on the overall spatial strategy.
8. The parties disagree as to whether the site is located within the settlements of Bache Mill or Diddlebury, for which the development plan does not include any settlement boundaries. The relevant development plan policy differs between the 2 locations, because Bache Mill is identified as a Community Cluster whereby infilling and conversions on small scale sites will meet local demand for housing, whereas Diddlebury is designated as countryside with more restrictions on development, and no policy suggestion for a target number of dwellings.
9. An Inspector recently considered this when dismissing a previous planning appeal for 12 dwellings on the site<sup>1</sup>, and suggested that the site may be within Bache Mill. However, their decision was not definitive on this point. Furthermore, some evidence for that conclusion included details from a recent nearby planning permission<sup>2</sup>, for which the Council has now provided more context, including that the site is located up the lane on the opposite side of the B4368 to the appeal site.
10. I agree with the Council that the B4368 road does act as a physical barrier between the 2 settlements, as well as providing a visual separation role. On my site visit I did not read Bache Mill and Diddlebury as a seamless developed settlement spanning across this. The new dwellings would be contiguous with properties along The Moors and The Moors View, which I found to have a strong relationship with those properties on the opposite side of the appeal site field along Mill Lane as part of Diddlebury village, rather than with those on the other side of the B4368. I am therefore satisfied that the site is within Diddlebury, and is thus in the countryside.
11. Policies S7.2(ii) and CS5 outline that the countryside is a location where new development will be strictly controlled in accordance with national policies protecting the countryside. Market housing is not encompassed within any of the development types specified for particular support by policy CS5, or similarly under any of the criteria in the SAMDev policy MD7a.
12. I acknowledge that the policy CS5 list is not exhaustive because the policy also sets out aspects which all countryside development should be judged against.

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<sup>1</sup> APP/L3245/W/21/3272416

<sup>2</sup> 18/01465/FUL

It states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted, where they improve the sustainability of rural communities by bringing local economic and community benefits. However, any benefits supported under policy CS5 must also be within the context of the development plan's spatial strategy as a whole.

13. Minor community benefits of the scheme would be the proposed play area, plus public access to part of the wider field which would be turned into a natural area, notwithstanding that the appellants have provided no further detail as to what this may comprise. The proposed site could also contain a number of features to attract wildlife and increase the ecological value of the land overall, and this would also be a minor benefit.
14. The appellant has put forward that the scheme would improve the sustainability of rural communities. This would be due to occupiers of the proposed dwellings using the school and the limited other facilities available in the village, with others able to be accessed via a regular bus service to nearby settlements. I acknowledge that these facilities would receive slightly increased patronage from 4 new dwellings, which would thus slightly contribute to enhancing and maintaining the vitality of rural communities. However, the Council's spatial strategy would be undermined by justifying housing on this basis. The intention overall is to limit housing in the countryside, including relatively strict policy criteria for allowing specialist housing types such as affordable homes or for rural worker houses. Allowing development for open market housing in the countryside provided that there is access to limited services nearby would clearly undermine this strategy, because such criteria could apply to a large area of the countryside outside of Community Hub and Community Cluster settlements.
15. The appellants reference that the proposal will deliver 4 dwellings with all the sustainably benefits that such housing provides, but do not further define what these benefits may be. I note the submitted Parish Council Housing Needs Survey (2019), but no clear link has been demonstrated with this document. Notwithstanding that windfall development is important to the spatial strategy including for development in the countryside, as highlighted in the appellants' discussion of SAMDev policy MD3, there is no dispute that the Council is able to demonstrate a 5 year housing land supply. Therefore 4 family dwellings would only make a very minor contribution towards housing supply and are only a minor benefit within this context.
16. I note that the dwellings are expected to adopt sustainable building codes, with local materials sourced where possible. However, this is not a public benefit of the scheme. I also find a greater overall supervision of the surrounding area to be only a neutral matter. I have no evidence that the use of the existing public highway for access or the presence of existing mains drainage would be a public sector cost benefit overall.
17. While the scheme may not occupy an isolated location for the purposes of the National Planning Policy Framework ('the Framework') (2021), paragraphs 12 and 15 of the Framework emphasises the statutory status of the development plan as the starting point for decision-making and for addressing housing needs. CS policy CS5 does not directly support development on the basis of it not being isolated.

18. In conclusion therefore, the scheme's benefits in totality are only minor, and are outweighed by the harm which would be caused because the proposed development would not be in a suitable location for housing, having regard to the local development strategy for the area. The proposal would be contrary to the Shropshire CS policies CS1, CS4, and CS5, the Shropshire SAMDev policies MD1, MD1.1, MD7a, S7.2, and S7.2(ii), and would also conflict with the Framework regarding appropriately addressing housing need.

#### *Setting of Bache Mill House*

19. I have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the impact of the proposal on the special architectural and historic interest of listed buildings and their settings. Section 16 of the Framework also requires that great weight should be given to the conservation of designated heritage assets.
20. Bache Mill House is a Grade II Listed early 17th century timber frame house associated with the Bache Mill Corn Mill, located around 25m from the site boundary. Its significance derives from the building's reflection of the economic prosperity of agriculture in the Corvedale in the early 17th century. It also occupies a strategic position high up and close to the bridge beside the main carriageway.
21. Whilst Bache Mill House is now partly enclosed by development, it would originally have been within in a more open countryside setting, with the appeal site field being a remaining connection in this regard. The proposal would clearly fall within the setting of the listed building, and be visible both from Bache Mill House and from views encompassing it across the field. It would therefore cause harm, from an encroachment onto the open field setting.
22. I find that this is less than substantial harm, because the dwellings would be set against the backdrop and built form of the existing housing, and because 4 dwellings only occupy a relatively small part of the larger field. There would still be some separation from Bache Mill House, with no public views obstructed. The previous Inspector identified less than substantial harm for a larger scheme, and the Council also generally concurs with this view for this appeal scheme as does the appellants' Heritage Statement.
23. The Framework paragraph 202 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The SAMDev policy MD13 reiterates this requirement. I have already set out above that the scheme's proposed benefits would only be minor, and I therefore find that they do not outweigh the harm.
24. In conclusion, the proposed development would cause less than substantial harm to the setting of Bache Mill House. It would therefore be contrary to the Shropshire Core Strategy policies CS6 and CS17, the Shropshire SAMDev policies MD2 and MD13, and paragraph 202 of the Framework. Together, these seek to protect and enhance the built and historic environment, including Shropshire's heritage and environmental assets.

### *Great crested newts*

25. The Ecological Impact Assessment<sup>3</sup> identified one pond located within 250m of the site which has the potential to support great crested newts. These are a protected species protected by law including under the Conservation of Habitats and Species Regulations 2017.
26. The appeal evidence includes a Great Crested Newt Survey<sup>4</sup> based on physical surveys undertaken in April/May 2019, plus a 2022 Technical Report<sup>5</sup> analysing the great crested newt environmental DNA in the water. This updated information did not identify any evidence of great crested newts in the pond. The County Ecologist and the Council are therefore now content that the species is unlikely to be impacted by the proposed development. I agree that the updated information provides me with sufficient conviction that great crested newts would be unaffected, and therefore will retain their required level of protection.
27. The Council still considers that the relevant ecological reports should be updated to identify any changes to the site conditions, recommended mitigation, compensation, and enhancements. However, the 2019 Survey states that no further survey, impact assessment or mitigation is required, and I am satisfied that the information is adequate.
28. In conclusion, the proposed development would not cause harm to the protected species of great crested newts. It would therefore comply with policies CS6 and CS17 of the Shropshire Core Strategy, and policy MD12 of the Shropshire SAMDev insofar as they relate to protection of the natural and ecological environment, assets, and biodiversity. The proposal would also comply with the Framework in respect of its requirements to protect priority species and biodiversity in Chapter 15.

### **Other Matters**

29. The site lies near to the boundary of the Diddlebury Conservation Area, and so I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Conservation Area is centred around the main historic core of the village, with its significance derived from its mix of historic and contemporary buildings including a number of Listed Buildings. The Council has not raised concerns that the proposal would affect the character or appearance of the Conservation Area and its setting. I agree with this position, due to the site's distance, and visual and character separation from the Conservation Area boundary.
30. The boundary of the Shropshire Hills Area of Outstanding Natural Beauty (AONB) runs nearby along the north side of the B4366. Due to the separation distance and topography, and that views to and from the appeal site from the AONB are already impeded by existing residential properties and vegetation, I agree with the Council that no harm would be caused to the AONB or its setting.

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<sup>3</sup> Churton Ecology, December 2018

<sup>4</sup> Churton Ecology, May 2019

<sup>5</sup> Churton Ecology, April 2022

31. I acknowledge that the surrounding land has been developed for housing over many years, but this does not affect the current context for my decision.
32. Previous discussions between the main parties relating to potential affordable housing provision on the site are outwith the matters before me.

### **Planning Balance and Conclusion**

33. I have found that the proposal would not affect great crested newts. However, it would not be in a suitable location for housing, and so would harm the local development strategy for the area, and would also harm the setting of Bache Mille House. I give this harm significant weight.
34. Taken together, the minor public benefits of the scheme identified above overall do not outweigh the harm. In conclusion, the scheme conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, and for the reasons given above, I conclude that the appeal is dismissed.

*L Hughes*

INSPECTOR