



# Appeal Decision

Site visit made on 21 November 2022

**by M Ollerenshaw BSc (Hons) MTPI MRTPI**

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

**Decision date: 16 January 2023**

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**Appeal Ref: APP/L3245/W/22/3299951**

**The Old Railway Line, Pipe Gate, Market Drayton TF9 4RT**

- 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 and Mrs Lightfoot against the decision of Shropshire Council.
  - The application Ref 22/00553/OUT, dated 3 February 2022, was refused by notice dated 14 April 2022.
  - The development proposed is described on the application form as 'proposed extension to existing equipment store, and maintenance shed to create a live work unit'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application was in outline with appearance and landscaping reserved. As such, I have regarded all elements of the drawings submitted as indicative apart from details of access, layout and scale.

## Main Issues

3. The main issues are:
  - whether the proposal would constitute an acceptable form of development in this location, having regard to the provisions of local and national policy relating to the location of development;
  - the effect of the proposed development on the character and appearance of the area; and
  - the effect of the proposed development on highway safety.

## Reasons

### *Location*

4. The appeal site is a parcel of land to the west of Pipe Gate and east of Watery Lane. Formerly part of a railway line the site is now largely grassed over save for an equipment store/maintenance shed and areas of hardstanding. There are fields to the north, south and west and a modern housing estate known as Priory Gardens a short distance to the east. The site is outside of the identified settlement boundary for Pipe Gate and is therefore within the countryside.
5. Policy CS5 of the 2011 Shropshire Core Strategy (the Core Strategy) indicates that new development in the countryside will be strictly controlled in accordance with national planning policies. Policy CS1 of the Core Strategy sets

- out the Council's overall strategic approach to development and investment, indicating that in the rural areas it will be located predominantly in community hubs and community clusters, and not permitted outside these settlements unless it relates to economic diversification and to meet the needs of the local communities for affordable housing.
6. Policy HOU1 of the Woore Neighbourhood Plan 2016-2036 (the Neighbourhood Plan) sets out that land outside the settlements is designated as open countryside, where new development will be strictly controlled in line with the development plan and national policies.
  7. Core Strategy Policy CS13 encourages home-based enterprise, including the development of live-work schemes, although it also reflects the need for proposals for development in rural areas to comply with the requirements of Policy CS5. Policy CS5 provides some support for development on 'appropriate sites, which maintain and enhance countryside vitality and character', including small scale new economic development diversifying the rural economy, and dwellings to house agricultural, forestry or other essential countryside workers. The policy requires the need for, and benefits of, such development to be demonstrated, and expects it to take place primarily in recognisable named settlements or be linked to other existing development and business activity. Policy ECON1 of the Neighbourhood Plan is supportive of proposals which support the rural economy and that promote or provide facilities for businesses operating from home, subject to respecting the built and landscape character.
  8. Policy MD7a of the 2015 Shropshire Site Allocations and Management of Development Plan (the SAMDev Plan) permits dwellings to house essential rural workers where certain criteria including financial and functional tests are met and there are no other existing suitable and available affordable dwellings or other building which could meet the need.
  9. The proposal is for a live work unit to support the appellants' physiotherapy and chiropractic clinic which they currently run from their existing property on Pipe Gate. The proposal is not an essential countryside workers dwelling and there is no substantive evidence before me to show a functional need for a permanent new dwelling on the site. As noted, Core Strategy Policy CS5 provides some support for small scale new economic development diversifying the rural economy. Whilst the live work unit would support the appellants' existing business, that business is currently located elsewhere and the proposal would not diversity the rural economy or be located on allocated employment land.
  10. The appellants contend that the existing established business needs to relocate from Pipe Gate due to increased traffic arising from development of the HS2 rail line, which will make crossing the A51 to their current premises dangerous for business clients. However, the A51 is a busy main highway which the appellants' clients already cross to reach the existing practice. There is no substantive evidence before me to demonstrate that increased traffic along the A51 from construction traffic associated with HS2 will dissuade clients from visiting the practice to the extent that the business would become unviable, and increased traffic from HS2 would be for a temporary period during the construction phase. Both parties also refer to a proposed crossing which would be relatively close to the appellants' existing premises which would introduce a safer means of crossing the road for clients. The appellants contend that there

are no other suitable properties in the area within their budget that would be capable of providing the required living space and consulting rooms. However, I have not been provided with any substantive details of the appellants' property searches in the local area. Moreover, there is no substantive evidence before me to demonstrate why the business requires a countryside location or a combined live work unit to ensure its continued viability. Therefore, on the basis of the evidence before me I am not persuaded that there is a demonstrable need for a new live work unit in this countryside location.

11. The appellants acknowledge that the site is outside the settlement boundary but have referred to the boundary as being questionable on the basis of the planning history of the area. However, it is not the purpose of this s78 appeal to reassess the settlement boundary for the area. It is also claimed that the site falls within land that was intended to be developed for housing as part of phase 2. However, planning permission for residential development on the site has not been granted and the fact remains that the site falls within the open countryside.
12. The appellants have referred to a recently approved development to the north of the appeal site. However, the substantive details and the planning history of that development have not been provided and so I cannot be sure it represents a direct parallel to the appeal proposal. In any event, I have considered the appeal on its own merits based on the specific circumstances of the site.
13. I accept that the provision of a live work unit would provide some support for the vitality of the rural community, but this would be limited due to the scale of the development and its location outside an identified settlement with site access constraints.
14. For the reasons given above, I conclude that there is insufficient justification for a live work unit on the site. Accordingly, the appeal proposal would not be an acceptable form of development within this countryside location, having regard to local and national policy. Consequently, it would conflict with Policies CS1, CS5, CS10 and CS13 of the Core Strategy, Policies MD1 and MD7a of the SAMDev Plan, and Policy HOU1 of the Neighbourhood Plan, which seek to restrict development outside settlements. The proposal would also be at odds with the aims and objectives of the Framework in respect of development in the countryside.

#### *Character and appearance*

15. The main body of the site is bound by embankments to the north and south and is therefore set at a lower level than the adjoining open fields. There is an established hedgerow along the northern boundary and trees along the southern boundary of the site. Despite being part of a former railway cutting and rubber works, the site is now largely grassed over and is set within a landscape of farmland, accordingly exuding a rural character which contributes positively to the area.
16. Despite the utilitarian appearance of the existing building on the site, in terms of its scale, design and materials, it is not dissimilar to other agricultural buildings typically found in the wider countryside. For this reason, the existing building does not unduly detract from its rural setting.

17. The application is made in outline with details of layout and scale subject to consideration as part of this proposal, which would involve the extension of the existing building to provide living accommodation and work space. The submitted plans indicate large extensions to both sides of the building which would substantially increase the footprint and volume of the building and emphasize its isolated presence within the surrounding countryside.
18. The building would be likely to require the insertion of several windows and doors to provide adequate internal living and working spaces. Such openings would be likely to domesticate the simple, agricultural appearance of the existing building. The resulting building would appear unduly domesticated and as an incongruous feature within the rural landscape.
19. In addition, the creation of a garden area and domestic paraphernalia associated with residential occupation, together with alterations to the access road and new formal parking area with parked vehicles, would have an additional urbanising effect on the rural character of the site and the surrounding landscape.
20. Existing trees and established hedgerows on the northern and southern boundaries of the site would provide some screening of the proposal from outside the site. However, the proposal would still be partially visible within the surrounding landscape, as confirmed by the appellants' visual assessment. Given the scale and height of the building, it would be clearly visible from various vantage points, including from the bridge on Watery Lane to south west, the public right of way to the north east, from the B5026 to the north west, and it would appear unduly prominent from within the site itself. Due to its siting and scale, the proposal would represent an inappropriate form of development that would significantly diminish the landscape value of the area and be harmful to the character of this part of the countryside.
21. The plans indicate reinforced boundary planting to the eastern part of the site which would provide additional screening of the proposal from the public right of way to the east. However, new planting would take some time to mature and given the scale of the proposed development, would not sufficiently mitigate the harm to the rural landscape.
22. For the above reasons, I consider that the proposal would result in significant harm to the character and appearance of the area. It would therefore be contrary to Policies CS5, CS6 and CS17 of the Core Strategy, Policies MD2 and MD7b of the SAMDev Plan and Policies HOU3 and ECON1 of the Neighbourhood Plan which, amongst other things, seek to protect the countryside and ensure that development responds appropriately to local character and the form, layout, design and details of existing development. The proposal would also conflict with the Framework where it seeks to ensure that proposals contribute to and enhance the natural and local environment.

#### *Highway safety*

23. The proposed development would be accessed via Watery Lane using the existing gated access point to the south. The lane appears to be lightly trafficked and vehicle speeds are likely to be low due to its narrow and winding nature with no formal passing places.

24. The submitted details indicate that the practice would have a maximum of 12 visitors per day, from 0900 hours to 1800 hours Monday to Friday. Although it is possible that some visitors would walk, cycle or use public transport to get to the site, given the rural character of the site, I consider that the majority of visitors would arrive by private car.
25. The likely number of vehicle movements to and from the site from future occupiers and customers would result in an increased likelihood of vehicles meeting one another on Watery Lane which would result in vehicles having to make potentially long reversing manoeuvres along a lane with limited visibility in places, no passing opportunities and substandard junctions with the main roads to the north and south. I acknowledge that vehicle speeds along the lane are likely to be low and note the appellants' statement that their customers are generally from the local area and use such lanes daily. However, increased use of Watery Lane in the manner proposed would be potentially hazardous and would lead to conflict and inconvenience to highway users.
26. A revised option of accessing the site via the existing gated access from Phoenix Rise has been suggested. However, that access point is not within the appeal site and I have assessed the proposal on the basis of the scheme submitted to and determined by the Council.
27. For the above reasons, I consider that the proposal would have an unacceptable impact on highway safety. Therefore, it would be contrary to Policy CS6 of the Core Strategy which requires development to be safe and accessible to all, and Policy MD2 of the SAMDev Plan which requires development to have appropriate infrastructure. In addition, I find that there would be a conflict with Framework where it requires the provision of safe and suitable access to the site for all users and seeks to prevent development that would have an unacceptable impact on highway safety.

### **Other Matters**

28. I note the appellants' concerns with the way in which the Council dealt with the planning application. This is however a procedural matter for the Council to address and does not impact on my assessment of the merits of the case.
29. The proposal would have social and economic benefits through the provision of a new live work unit, which would contribute towards the Council's housing supply and support the existing business. Employment opportunities would be created during the construction phase of the development, and future occupants of the dwelling would contribute to the local economy. I have attached some weight to these factors. The proposal would also incorporate sustainable design techniques, use a fabric first approach and ground and air source heat pumps. It is also suggested that enhanced landscaping of the site as a result of the proposal would provide greater wildlife activity than at present. Given the modest scale of the development, the weight attributable to these matters is limited. The appellants state that the proposal could become an affordable home, but there is no mechanism before me that would secure it as such. The proposal would provide a primary care facility which would operate as part of the local health care provision. However, that facility is already provided from the existing premises a short distance away from the site and, on the basis of the evidence before me, I am not persuaded that the business requires a countryside location. The benefits of the scheme are not

sufficient to outweigh the harm that I have identified and the conflict with the policies I have referred to.

30. Based on the previous uses of the site, the appellants claim that it constitutes previously developed land, which is disputed by the Council. The Framework encourages the use of previously developed land where opportunities exist. Previously developed land is defined in Annex 2 of the Framework. Even were I to reach the view that the site did constitute previously developed land as defined within the Framework, the harm I have found would not be outweighed by any benefits associated with the use of previously developed land.

### **Conclusion**

31. The proposed development does not accord with the development plan read as a whole, and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*M Ollerenshaw*

INSPECTOR