



# Appeal Decision

Site visit made on 6 March 2023

**by Ben Plenty BSc (Hons) DipTP MRTPI**

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

**Decision date: 4<sup>th</sup> April 2023**

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**Appeal Ref: APP/L3245/W/22/3306210**

**Horton House Farm, Horton, Wem, SHREWSBURY SY4 5ND**

- 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 and Mrs M & J Sissens against the decision of Shropshire Council.
  - The application Ref 21/05610/FUL, dated 29 November 2021, was refused by notice dated 7 July 2022.
  - The development proposed is the conversion of a former agricultural building to tourist let including parking and amenity area.
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## Decision

1. The appeal is dismissed

## Applications for costs

2. An application for costs has been made by Mr and Mrs M & J Sissens against Shropshire Council. This application is the subject of a separate Decision.

## Main Issues

3. The main issue is whether the proposed holiday let accommodation would be in a suitable location with respect to local and national policies.

## Reasons

### *Locational matters*

4. The appeal site is located about a mile from the settlement of Wem. It is accessed from the B5063 via a private access track. The access track leads to two dwellings and the appeal site, which are within a small cluster of buildings in the open countryside. The B-classified highway is subject to a 60mph speed restriction and does not benefit from a footway or streetlights.
5. The development plan for the district includes the Shropshire Council Site Allocations Management of Development (SAMDev) Plan 2015. SAMDev policy MD11 supports tourism development that require a countryside location, provided it would complement the character and quality of the site's surroundings and would meet CS policies CS5, CS16 and other policies of the Plan.
6. Policy CS5, of the Shropshire Core Strategy 2011 (CS), lists criteria for suitable development in the Countryside. The sixth criterion supports sustainable rural tourism and leisure facilities which require a countryside location, that would be in accordance with policy CS16. CS policy CS16 seeks proposals, related to

tourism, culture and leisure, to enhance the vital role that these sectors play in the local economy with emphasis placed on seven key objectives. The first objective supports tourism development that would be appropriate to its location. The seventh objective requires this type of development to be in accessible locations that is close to or within settlements, or within an established tourism enterprise where accommodation is required. This policy also supports the reuse of existing buildings.

7. These policies are broadly consistent with the National Planning Policy Framework (the Framework) that supports a prosperous rural economy and sustainable rural tourism and leisure developments which respect the rural character of the countryside.
8. The term 'settlements' is not defined by the Council. However, I take this to be read as referencing settlements that are listed in the Council's Hierarchy of Settlements used by the Council to inform a settlement's potential to accommodate future development. This defines Wem as a key settlement/service centre and does not identify Horton as a settlement. Therefore, whilst Horton has some characteristics of a settlement it is not one in policy terms. As such, for policy purposes I consider the site to be outside of a recognised settlement. The Council's reference to 'close to' is also not defined or explained in policy and is therefore a matter of planning judgement. I find that closeness is a matter of both geographic distance and the site's accessibility to a settlement.
9. The Appellants have provided examples of several holiday-let schemes that have been approved by the Council around Wem and other settlements, I have taken these into consideration. These decisions demonstrate that some tourist related development, a similar distance from settlements, were deemed by the Council to be 'close' to the settlement. Nevertheless, it is also acknowledged that most of these decisions show that each site would provide broader access to a range of travel choices than that found for the appeal site. Other proposals were substantially closer to a settlement or subject to other material considerations. Due to the variations in geography, situation and planning context, I do not find that the Council has concluded on matters of accessibility in a manner patently at odds with an established approach.
10. During my visit I noted that the B5063 was relatively narrow and without footways or streetlights with access to extremely limited areas of grass verge refuge. I found passing traffic to be fast and this environment would be intimidating to a pedestrian or cyclist. Without the benefit of footway or streetlights this route to Wem would be unsafe for such users. Furthermore, whilst the rear access of the site connects through the Appellants' land to a lane, this still would require the use of the B5063 to gain access to Wem offering limited benefits to pedestrian safety.
11. Moreover, occupiers of the holiday let would not have access to public transport from Horton. The use of the community bus would be unlikely to be available to visitors and in any event would only be likely to provide a limited sporadic service for holiday makers. Although reduced access to public transport in rural locations is recognised by the Framework, this also seeks to promote sustainable rural tourism. The site would not offer any real alternatives for visitors other than to use the private car and would not therefore meet this objective.

12. Accordingly, the site would not offer a suitable or accessible location for tourist let accommodation in consideration of local and national policies. As such, the proposal would conflict with CS policies CS1, CS5, CS6 and CS16, SAMDev policy MD11 and the Framework for the reasons outlined above.

### **Other considerations**

#### *Public Sector Equality Duty*

13. The Appellants have indicated that the description of development initially included “for persons with cognitive and physical disabilities and their families” but this was excluded from the description by the Council. I note that the description of development on both the application form and appeal form are the same, excluding the above reference, and I therefore surmise that the description was revised prior to submission.
14. The Appellants state that the proposed holiday let would be made available for persons with cognitive and physical disabilities and their families. In my assessment of the effect of the proposed development on the wellbeing of users of the facility, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
15. Given the nature of the Appellants’ intended market, the group targeted as suitable users of the facility share a protected characteristic for the purposes of the PSED. I have therefore afforded greater weight to the needs of this group as required by the PSED. The proposal would provide mental and physical health benefits and benefits socially and emotionally to members within this protected characteristic. Users would be able to make use of the countryside setting providing a tranquil and pleasant environment. The layout plan shows the bathroom would include specialist equipment and would include suitable décor for those with sensory impairment to enjoy a relaxing stay. The Appellants would also offer onsite support for visitors, providing additional assistance for families with a supportive and non-judgemental approach. Consequently, the proposed use would advance the equality of opportunity, and foster good relations for a group of persons, within a protected characteristic.
16. The proposal has generated substantial support, at both the application and appeal stages, from many local groups who provide services for this protected group identifying a clear and pressing need for this specialist type of holiday accommodation. I am also cognisant that supporters have remarked that the facility would provide a safe and stimulating environment for those who have additional needs. As a result, the proposal would provide specialist accommodation that would meet the requirements of a protected group. Moreover, if the proposal is found not to be acceptable this would deny such users from gaining access to such a facility. Accordingly, the benefits of the proposal through assisting in meeting the needs of a protected group, weigh in favour of the proposal.
17. Nonetheless, whilst being offered as suitable accommodation, I see no compelling reason why it would not equally appeal to holiday makers outside of this protected group. Any planning condition that would seek to restrict the

occupation of the holiday let to this protected group would suppress the potential customer base of the holiday let, applying an unreasonable burden to the viability of the business. Furthermore, such a restriction would require the Council, in enforcing the condition, to ensure that visitors met the qualifying requirements. This would be both invasive and compromise the dignity of users and present a substantial administrative burden. Accordingly, such a condition would be unreasonable and unenforceable. Furthermore, no other legal mechanism has been advanced by the Appellant to attempt to address this matter in another way. As such, the proposal would not be exclusive to this protected group and would be open for use by the open market. This benefit therefore weighs only moderately in favour of the proposal.

### **Other Matters**

18. The neighbouring dwelling of 'The Swallows' includes habitable rooms at its northeastern end, with some side windows that overlook the site's boundary. The boundary fence provides a relatively robust line of screening. Furthermore, the proposal would not include any windows adjacent to the shared boundary and activity in the front garden area would be largely obscured by the appeal building. I am cognisant that the Council's Environmental Protection Team has remarked that holiday lets can result in greater noise than a conventional residential property. Nonetheless, due to the orientation of the appeal building, relationship of its frontage to 'The Swallows' and location of boundary screening, noise effects beyond the site edge would be limited.
19. 'Horton Villa' is a grade II listed building to the west of the site. Its significance derives from its architectural interest in a traditional rural setting. I am satisfied that its setting would be preserved due to the separation distance, intervening buildings and level of landscape screening.
20. The scheme would involve the reuse of an existing barn and would largely make use of existing openings. The appeal barn is within a small cluster of buildings where its conversion and use would not erode the surrounding area's open and rural character. It would therefore complement the character and quality of the site and its surroundings. Furthermore, the use of the proposed access, using the existing shared access drive, would not harm highway safety. However, an absence of harm in these respects can only be considered as neutral factors in the planning balance.
21. An appeal decision has been submitted by the Appellants with respect to a proposal for holiday lodges in Much Wenlock, in 2018<sup>1</sup>. The Inspector allowed the appeal partly on the basis that despite the site providing limited accessibility into Much Wenlock, its rural location would be a fundamental part of its attraction to tourists, providing an escape from urban environments. However, the decision also identifies that the site was substantially closer to Much Wenlock than this appeal site is to Wem, and a public right of way in that case offered a safe pedestrian route to the settlement albeit indirectly. Therefore, whilst considering this case on its own merits, I find that the 2018 appeal site's location and context is markedly different to the site the subject of this appeal preventing any clear comparisons to be made.
22. The proposal would have a small, positive economic effect on the local area through adding to the range of visitor accommodation in the area. Visitors

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<sup>1</sup> Appeal Decision Reference: APP/L3245/W/18/3195876

would also contribute to the local economy through spending at local businesses and attractions. Furthermore, tourists could also help to maintain the viability of community service and facilities within nearby settlements. These benefits weigh in favour of the proposal.

### **Planning Balance and Conclusion**

23. The proposed use would not be located within a defined settlement or adjacent to one, occupiers would have no direct access to public transport and the accommodation would lack access to safe pedestrian/cycle transport links. Consequently, most if not all journeys would be reliant on the private car creating a site with poor accessibility. In contrast, the proposal would result in the reuse of a building, within a cluster of buildings and would make a small contribution to the local tourist economy, providing positive, albeit limited weight in support of the proposal.
24. Furthermore, the proposal would also meet the specialist requirements of a protected group. The Appellants' intended customer base would be families with autistic children and children with learning disabilities, which the Appellant indicates would have a greater reliance on the private car to access the site and the surrounding area. It is further indicated that visitors would have good access to the wider countryside for walks via the rear access onto Drakey Lane, providing direct access into the countryside without using the B5063. Nonetheless, having given these matters due consideration, I find that the benefits of delivering a facility that would meet the needs of this protected group, and the associated modal transport requirements of this group, would convey only modest weight in favour of the scheme.
25. Therefore, the benefits of the proposal would not outweigh the conflict found with the development plan. Accordingly, there are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should not succeed.

*Ben Plenty*

INSPECTOR