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# Appeal Decision

Site visit made on 24 May 2023

**by J Hobbs MRTPI MCD BSc (hons)**

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

**Decision date: 13<sup>th</sup> July 2023**

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**Appeal Ref: APP/L3245/W/23/3314030**

**Clubhouse Farm, Church Street, Hinstock TF9 2TF**

- 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 Victor Simpson (Goulden Simpson Limited) against the decision of Shropshire Council.
  - The application Ref 22/01679/OUT, dated 5 April 2022, was refused by notice dated 10 October 2022.
  - The development proposed is outline planning application for the erection of up to 7 dwellings (appearance, landscaping and scale reserved for future determination).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal seeks outline planning permission with all matters reserved except for access and layout. I have considered the appeal on this basis and have treated any plans in relation to the reserved matters as illustrative.
3. The description of development is taken from the application form. Whilst the appellant did not object to amending the description of development, as I have no evidence that an expressed agreement was made between the main parties, the original wording remains.

## Main Issues

4. The main issues are:
  - the effect of the proposed development on the character and appearance of the area;
  - whether the appeal site is an appropriate location for development, with regard to the development strategy;
  - whether the appeal proposal would include an appropriate affordable housing provision; and,
  - the effect of the proposed development on protected species.

## Reasons

### *Character and appearance*

5. The appeal site is located to the side and rear of the farmhouse at Clubhouse Farm. The land to the side is identified as scrubland and is largely overgrown with mown walkways, the land to the rear appears to be a garden area associated with the farmhouse. The appeal site is surrounded by residential

- development set in spacious grounds and a wooded area which is a nature reserve. These factors combine to create a spacious and tranquil character.
6. There is no consistent pattern of residential development but most of the properties on this section of Church Street front on to the road with little separation between them and open to the rear to large gardens. There are some examples of residential development to the rear of these properties, where similarly large properties have been built within the spacious grounds.
  7. This section of Church Street appears narrow as it is characterised by walls built close to the road, often with tall, dense vegetation growing above them.
  8. The proposed development includes the construction of 6 dwellings on the scrubland and an additional dwelling in place of a shelter which is located to the side of the farmhouse. The proposed site plan shows most of the plots would benefit from well-sized back gardens with a good provision of parking to the front, and the overall density of development is relatively low. However, plot 7 would be a relatively small plot close to the boundary with the farmhouse. It would have limited external amenity space, and a relatively large footprint compared to its plot size. It would therefore appear cramped when viewed alongside neighbouring residential development and the other plots. The inclusion of an outbuilding to its rear would amplify the cramped appearance.
  9. Likewise, if the proposed development was constructed the front courtyard of the existing farmhouse would be shared with future residents of plot 7 and the rear amenity space would be significantly reduced to accommodate the access road. Given the size of the existing farmhouse, if its private grounds were reduced to such an extent, it would also appear cramped when viewed alongside neighbouring development.
  10. During my site visit, I observed that the neighbouring rear gardens extend to the wooded area and there is a large outbuilding at the end of the neighbouring garden. The proposed development would also extend to the wooded area and doesn't border land which could be characterised as open countryside therefore it would have a functional relationship with neighbouring development.
  11. The lawfulness of the extent of the neighbouring rear gardens is disputed by the Council. Even if it was considered lawful, the proposed development would lead to the extension of built development toward the nature reserve from the farmhouse. Furthermore, the increased density of development, compared to neighbouring development, and the associated increased residential activity would be harmful to the tranquillity of the area and subsequently the setting of the nature reserve. Although the proposed development would be largely screened from public views, harm would persist.
  12. The appellant contends that the proposed development would be similar to that on St Oswald's View, which is a cul-de-sac and accommodates a tighter grain of development. Whilst it is only a short distance from the site, to access it one would have to travel a long distance along Church Street, Goldstone Road and Marsh Lane. As such, it has very limited effect on the character and appearance of the immediate surrounding area. Likewise, the appellant highlights branching development off Damson Way and Manor Farm Drive, however these are located away from this section of Church Street which benefits from its own historic character.

13. Whilst the existing boundary wall and vegetation is contributing to the character and appearance of this section of Church Street, the removal of a section to create an access would be in keeping with similar accesses along the road. An appropriate boundary treatment, to the rear of the farmhouse, which reflects local materials and respects the character and appearance of the road could be constructed. If I was to allow the appeal, I would have attached a condition to the planning permission specifying details of the boundary treatment needed to be submitted to and approved by the local planning authority.
14. The proposed development would have a harmful effect on the character and appearance of the area. It would therefore be contrary to policies CS6 and CS17, of the Shropshire Local Development Framework: Adopted Core Strategy (CS), March 2011, and policies MD2 and MD12 of the Shropshire Council, Site Allocations and Management of Development (SAMDev) Plan, Adopted Plan, December 2015. These policies indicate that sustainable places will be created by ensuring that development protects, restores, conserves and enhances the natural, built and historic environment; development will protect Shropshire's environmental assets by ensuring development protects and enhances the local character; development proposals are required to reflect local characteristic and architectural designs; and, proposals will be supported which contribute positively to the special characteristics and local distinctiveness of an area.

#### *Appropriate location*

15. It is acknowledged by both parties that the appeal site is located across the development boundary. Most of the access and plot 7 would be located within the boundary and the remaining dwellings would be located outside. For the purposes of the local plan, part of the site is therefore considered to be located within the countryside.
16. CS Policy CS5 seeks to control new development in the countryside. The Policy explains that development proposals on appropriate sites which maintain the countryside vitality and character will be permitted where they improve the sustainability of the rural communities by bringing local economic and community benefits. It then identifies circumstances where development would be "particularly" supported. This indicates that the list of developments identified in CS Policy CS5 is not exhaustive and other developments which maintain the countryside vitality and character could be supported.
17. For the reasons given above, I do not consider that the proposed development would maintain the character of this section of the countryside. The proposed development is therefore contrary to CS Policy CS5.
18. SAMDev Policy MD7a supports housing in the countryside in specific circumstances, including sites where they meet evidenced local housing needs and are suitably designed and located, dwellings to support rural workers, replacement dwellings, and the conversion of holiday lets. The proposed development would not be considered within one of the above categories and is therefore not supported by the Policy.
19. SAMDev Policy MD3 indicates that planning permission will be granted for residential development, outside of allocated sites, where it has regard to multiple Local Plan policies including CS policies CS5, CS6 and SAMDev Policy

- MD7a. It has been demonstrated above that the proposed development does not comply with these policies.
20. SAMDev Policy MD3 also explains that the settlement housing guideline is a significant policy consideration and where development would result in providing more dwellings than the guideline, decisions will have regard to a number of factors. It is not disputed that the housing guideline figure for Hinstock up to 2026 has already been surpassed and there are additional sites which benefit from permission which could be implemented.
21. Whilst the housing guideline figures should not be considered as a strict upper limit, consideration is given to the extent of the delivery of housing above this figure and the potential resultant impact on services in the area. The proposed development would produce economic benefits and is located close to services. However, the unplanned delivery of housing above the housing guideline figure for Hinstock, in combination with the delivery of other consented but unimplemented residential development could lead to undue stress on local services and infrastructure. Cumulatively, this could lead to significant harm despite the relatively minor scale of the proposed development.
22. I have no information on whether other developments, beyond the development boundary required planning permission nor the most pertinent details of any relevant planning applications, including whether the Council could demonstrate a five year housing land supply. As such, I cannot conclude that similar development beyond the development boundary would justify the proposed development.
23. It is not disputed by either party that the appeal site is an appropriate location for residential development, insofar as it is in proximity to services within Hinstock that would be accessible by non-vehicular modes of transport.
24. However, the appeal site is not an appropriate location for development, having regard to the development plan, and the appeal proposal is therefore contrary to CS policies CS4 and S11.2 and SAMDev Policy MD1. These policies support sustainable development by allowing development for local needs and developments which have regard to policies in the development plan; and set a housing guideline figure of approximately 60 dwellings in Hinstock up to 2026 to be delivered through allocated sites and development on acceptable other sites.
25. CS Policy CS1 outlines the overall development strategy for Shropshire, which includes rural areas accommodating 35% of Shropshire's residential development. The proposed development is therefore not contrary to this policy.

#### *Affordable housing*

26. It is acknowledged by both parties that there is a significant need for affordable housing in the local area. CS Policy CS11 states for all sites of five dwellings and above, the provision of affordable housing will be expected on site. This approach is supported by paragraph 64 of the National Planning Policy Framework (the Framework) which explains that the provision of affordable housing should not be sought for developments that are not major developments, other than in designated rural areas. Hinstock is identified as a

designated rural area within The Housing (Right to Buy)(Designated Rural Areas and Designated Regions) (England) Order 2016/587.

27. As the provision of affordable housing on site for sites of five dwellings or above is only expected, there may be circumstances where the provision of affordable housing on site doesn't have to be made.
28. The appellant has advised that the provision of a single affordable housing unit is not a workable proposition. However, this has not been supported by substantive evidence explaining why it would be impractical or unreasonable. I acknowledge the unilateral undertaking signed by the appellant to provide a commuted sum that would contribute towards the provision of affordable housing elsewhere in Shropshire. Nevertheless, without further substantive evidence I cannot conclude that affordable housing would not be expected to be provided on site.
29. For these reasons, with the absence of substantive evidence to the contrary, the proposal would not make appropriate provision of affordable housing. It is therefore in conflict with CS Policy CS11, which seeks to achieve such.

#### *Protected species*

30. There are ponds within 250 metres of the proposed development that would provide suitable breeding habitat for Great Crested Newts (GCNs); also, the site would provide terrestrial habitat. As such, populations of GCNs would likely be affected by the proposed development.
31. The appellant, alongside Natural England, has agreed an Impact Assessment and Conservation Payment Certificate which confirms that the proposal is eligible to enter into a district level licensing scheme and the appellant intends to do so.
32. Natural England will only issue a licence if three test have been met. Namely: the development is necessary for preserving public health or public safety or other imperative reasons of overriding public interest; there is no satisfactory alternative; and the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.
33. The proposed development is not necessary to preserve public health or public safety. Likewise, there is no imperative reason of overriding public interest through the delivery of houses in a location that is not supported by the development plan where there is already sufficient housing delivery. The delivery of housing on sites, within and close to Hinstock, that have been granted planning permission is a satisfactory alternative to the proposed development. Natural England is satisfied that the commitment from the appellant to enter into a district licencing scheme will ensure the impacts of the proposed development on GCNs could be adequately compensated.
34. For these reasons, the proposal would fail two of the three tests and I therefore consider it unlikely that Natural England would issue a licence.
35. The proposed development would therefore have a harmful effect on protected species and would be contrary to CS policies CS6 and CS17 and SAMDev Policy MD12. These policies indicate that the creation of sustainable places will be achieved by ensuring all development protects, restores, conserves and

enhances the natural environment and ensuring it does not have a significant adverse impact on Shropshire's environmental assets and ensuring that proposals which are likely to have a significant adverse effect conform with the three aforementioned conditions.

36. It would also fail to comply with the Conservation of Habitats and Species Regulations 2017 (as amended), which includes a strict system of protection for European protected species, and Section 15 of the Framework which explains when determining planning applications if significant harm to biodiversity resulting from development cannot be avoided, planning permission should be refused.

### **Planning Balance**

37. St Oswald Church is a Grade II listed building. I find that the setting of the building, to be primarily associated with its formal grounds including the cemetery and its relationship with Church Street, and how the church grounds are set above residential properties. The proposed development would introduce additional residential development accessed from Church Street and would be set below the church grounds. It would be largely screened, by other residential development, in views from the church. For these reasons, I conclude that the proposal would preserve the special historic setting of the Grade II listed building. This would satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraph 199 the Framework.
38. The proposed development would lead to several economic benefits including direct capital expenditure in construction, construction jobs, increased consumer spending in the local area, increased local public finance, and the reuse of underutilised land, amongst others. Likewise, the proposed development would lead to social benefits through the delivery of seven houses in a rural location, where demand for houses may have increased as a result of the Coronavirus pandemic. This provision would also include one self-build plot.
39. The appellant has also indicated within the planning statement that the homes would include energy conservation measures such as air source heat pumps and insulation exceeding the relevant standards. These factors could provide environmental benefits.
40. However, due to the scale of development and the sufficient provision of housing in the area the combined benefits of the scheme would be limited and would not outweigh the identified harm.

### **Conclusion**

41. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
42. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

*J Hobbs*

INSPECTOR