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# Appeal Decision

Site visit made on 27 June 2024

**by J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

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

**Decision date: 20<sup>th</sup> November 2024**

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**Appeal Ref: APP/L3245/W/23/3330410**

**Land at Hengoed Fields, Upper Hengoed, Oswestry, Shropshire SY10 7EY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Michael McDonagh against the decision of Shropshire Council.
  - The application Ref is 23/02473/FUL.
  - The development proposed is stables, tackroom and foodstore, ménage, yard and access.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mr Michael McDonagh against Shropshire Council. That application is subject to a separate decision.

## Procedural Matters

3. I have corrected a typing error in the site's location, Oswestry rather than Oswentry and in my assessment below, the ménage itemised above, is referred to as a manege/riding arena as described in the submitted documents and plans. These are minor amendments that do not affect my determination of this appeal.

## Main Issues

4. The main issues are the effect of the proposal on:-
  - the character and appearance of the surrounding area;
  - highway safety; and
  - public rights of way.

## Reasons

### *Character and Appearance*

5. The appeal site comprises a field in an area surrounded by relatively flat open land interspersed with a scattering of buildings. The field is to the east of the road and a public footpath runs through the site at its eastern end. Its rural and open appearance define its character.
6. The stables have already been erected and although relatively modest in scale, together with the proposed manege/riding arena, access and parking area,

would be prominent in the landscape. Although stables and associated equestrian development are typically found in rural locations, the creation of this facility, unrelated to any development around it, introduces development into this open landscape where previously there was none. Such sporadic development erodes the character of this area. There is some screening, particularly from the road by the existing hedge and although additional hedgerow planting of native species could be secured through a suitably worded condition, the visual impact would be only marginally lessened from the road but still very prominent from the public footpaths to the north, east and south.

7. I note the landscape typologies referred to in which the appellant describes the site as falling within an area described as 'Principal Settled Farmlands.... defined by a clustered settlement pattern of hamlets and smaller villages and a medium to high density dispersal of farmsteads and wayside cottages' <sup>1</sup>. However, the proposal would introduce a new development, unrelated to any other buildings, farmsteads or cottages. The appeal site is also not part of the settlements at Hengoed or Upper Hengoed. The flat topography and isolated appearance of the development would therefore have an intrusive impact on the open character of this rural landscape.
8. I note that the Council has approved stables and maneges/riding arenas in other locations and from the information submitted these include a variety of rural locations. However, I have insufficient information about the details of these proposals in order to draw a direct comparison with the proposal before me.
9. Although no policy has been referred to that specifically applies to equestrian development, Core Strategy<sup>2</sup> Policy CS5 permits development in the countryside where it relates to sustainable rural tourism and leisure and recreation proposals which require a countryside location, amongst other things. In this case, the appeal site is not in a sustainable location. There has been no evidence that the site is within walking or cycling distance but is described as being a 15-minute drive away from the appellants home in St Martins. Its detachment from the nearest settlements at Hengoed and Upper Hengoed or any other nearby property also contributes to its unsustainability. Therefore, the proposal would conflict with the sustainability objectives of Core Strategy Policies CS5 and CS6 and that of the National Planning Policy Framework.
10. I conclude that the proposal would have a harmful effect on the character and appearance of the surrounding area and as well as conflicting with the above policies would also be contrary to Core Strategy Policy CS17 and SAMDev<sup>3</sup> Policy MD12, which seek to protect and enhance the local character and distinctiveness.
11. Whilst SAMDev Policy MD7b is entitled General Management of Development in the Countryside, its text refers to re-use of existing buildings, replacement buildings and agricultural development, none of which are relevant to this proposal. This policy, referred to in the decision notice is not therefore relevant.

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<sup>1</sup> Quote taken from the appellant's statement and submitted untitled document extract.

<sup>2</sup> Shropshire Council – Shropshire Local Development Framework: Adopted Core Strategy March 2011.

<sup>3</sup> Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan 17/12/2015.

### *Highway Safety*

12. Access to the site is from a busy road with a 60mph speed limit reducing to 40mph near Upper Hengoed to the north. The appellant judges that traffic speeds are around 50mph. However, this has not been qualified by any statistical information and appears to be based on a general assessment. I have no evidence therefore that would cause me to judge traffic speeds as anything other than the national speed limit.
13. The appellant has submitted a plan indicating that visibility splays of 2.4 metres x 215 metres can be achieved in both directions. The access itself is set back from the highway and a grass verge runs between the road and the hedge line in both directions. However, the submitted drawings are schematic only and there is no indication that they are based on an accurate survey. The accuracy of these visibility splays cannot therefore be relied upon. I also note the Council's concerns regarding access radii and internal manoeuvring space and parking.
14. Whilst planning conditions can ensure that precise specifications can be clarified and secured, it is important to ensure that vehicles can safely enter and leave the site safely and without encroaching on the opposing side of the carriageway. Given the speed of traffic on this road and in the absence of compelling evidence that the access can function safely for this development, I consider the uncertainty over visibility splays is not something which can be dependent on a planning condition.
15. The proposal would utilise an existing field access although I have no evidence as to its frequency of use or whether any of the road traffic incidents cited by the appellants and third parties involved this access. I have taken into account the appellant's submitted data which indicates two incidents, one which appears to be in Upper Hengoed in 2018 reported as of slight severity and another to the south of the site indicating severe severity in 2017, and third-party information which indicate seven incidents between 2017 and 2023.
16. The road is very straight and given the national speed limit that applies to the road and the lack of evidence that this would be safe for the proposal development, I can only conclude that it would have a harmful effect on highway safety. This would conflict with the development principles and transport aims of Core Strategy Policies CS6 and CS7.

### *Public Rights of Way*

17. A public footpath crosses the site, but this would be located away from the proposed development and therefore there would not be any physical impact on the footpath. The footpath continues into the adjacent field to the north and into the field to the south where it turns at a right angle to meet the road. Due to the flat landscape, the proposal would be visible from the footpath. This would not harm the enjoyment of walking along the footpath itself but the wider impact on the landscape would be affected as referred to above. However, as no physical harm would be caused to the footpath the proposal would not conflict with Core Strategy Policy CS17 or SAMDev Policy MD12 in terms of affecting Shropshire's natural network or an environmental asset.

## **Other Matters**

18. I have taken into account that the area is not protected by a specific landscape designation, Area of Outstanding Natural Beauty or any identified biodiversity or heritage assets. Also, the proposal would not impact on trees, hedgerows, heritage assets or significant views in terms of national designations. These matters have not affected my conclusions.
19. The appellants states that Core Strategy Policy CS16 is relevant but has not been mentioned by the Council. A copy of this policy has not been submitted but the appellant has quoted it. Taking the quoted policy therefore, it is concerned with tourism, culture and leisure. Whilst the appellant has extracted the leisure elements from the policy, the policy promotes sustainable tourism, culture and leisure in terms of their contribution to the local economy and benefits to the local community and visitors. However, the proposal is for the private use of the appellant and no evidence has been submitted that would indicate that it would contribute to tourism or the wider community. I do not therefore find this policy to be relevant.

## **Planning Balance and Conclusion**

20. I have not found harm to the public footpath and some elements relating to highway safety could be dealt with by condition. However, the proposal would have a harmful effect on the character and appearance of the surrounding area and no compelling evidence has been submitted that would convince me that highway safety would not be compromised.
21. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

*J D Clark*

INSPECTOR