



## Appeal Decision

Site visit made on 13 January 2025

by **N Robinson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 January 2025

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**Appeal Ref: APP/L3245/W/24/3345090**

**Land North of Top Street, Whittington, Oswestry SY11 4DR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mrs S Catmur & Mrs B Roberts against the decision of Shropshire Council.
  - The application Ref is 23/00936/OUT.
  - The development proposed is erection of six single-storey dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for layout and scale. I have considered the appeal on this basis.
3. On 12 December 2024, the National Planning Policy Framework (the Framework) was updated. An opportunity was provided to the main parties to make further written comment over these changes. This decision is based on the current Framework and has taken account of the representations made on this.
4. As part of the appeal the appellant has submitted a plan entitled 'revised sketch layout plan for BNG'. However, this plan does not include the whole site and isn't annotated with a scale. Given this, I do not consider that this plan is sufficiently detailed. Therefore, I have not accepted it as an amendment to the appeal proposal.
5. A Unilateral Undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal in relation to the provision of affordable housing. The Council has been given the opportunity to comment on this. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to this in my decision. I will return to this matter later in my decision.

### Main Issues

6. The main issues are:
  - whether the proposal makes appropriate provision for affordable housing;
  - whether the proposal makes appropriate provision for waste collection;
  - the effect of the proposal on highway safety; and

-whether the proposal is in a suitable location for housing, having regard to the spatial strategy of the development plan and access to services.

## Reasons

### *Affordable housing*

7. Outline permission is sought for the erection of 6 dwellings. The appeal is supported by a UU which sets the mechanisms by which affordable housing as required by CS Policy CS11 would be delivered. However, the UU before me is not dated. The land registry plan which forms part of the UU does not include the whole of the site as it excludes the highway land and part of the visibility splay to the front of Moorcroft. Given this I cannot be satisfied that all persons with an interest in the site, including any mortgage interests, are party to this agreement. Thus, the obligation before me is incomplete and its implementation would be uncertain. Additionally, the UU does not clearly define the location of the proposed affordable unit.
8. Given this, I cannot be certain that the affordable housing would be delivered. Therefore, the proposal does not make adequate provision for affordable housing as required by Shropshire Local Development Framework Core Strategy (2011) (CS) Policy CS11 which requires that all new open market housing development makes appropriate contributions to the provision of local needs affordable housing.

### *Waste collection*

9. It is proposed that on bin collection day bins would be placed in a bin collection/ passing point to the front of plot 6. Guidance in the Refuse and Recycling Advice for Developers Document (2022) (RRADD) sets out that residents should not have to pull/push bins or carry waste for more than 25 metres and that collection crews should not have to push/pull 2 wheeled containers more than 15 metres.
10. Plots 3 and 4 would exceed the maximum distance that residents should be required to pull their bins as indicated in the RRADD. However, the exceedance of the maximum distance would be limited, and the occupiers of these properties would not be required to drag wheelie bins an excessive distance on collection day.
11. However, the bin collection point would be sited considerably beyond the maximum distance operatives should be expected to push/pull bins as set down in the RRADD. There is no evidence that the downhill slope which would be encountered when bins are full would be a mitigating factor such that this greater distance would be rendered acceptable. Whilst acknowledging that the RRADD is guidance, given the distances involved, I have not been presented with any compelling evidence that refuse operatives would be willing to collect bins from the proposed collection place. Thus, it cannot be guaranteed that appropriate waste collection arrangements could be secured.
12. In light of the above, the proposal would not provide acceptable living conditions for future occupants with regard to waste collection. It would therefore conflict with those aims of CS Policy CS6 and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev) which seek to ensure that development contributes to the health and wellbeing of communities.

### *Highway safety*

13. The appeal site comprises a parcel of land on the north side of Top Street in Whittington. Top Street serves a predominantly residential area of approximately 40 houses and forms a link between Gobowen Road and Boot Street. On the northern side of Top Street there is no footway, and the highway is bounded by property boundaries and accesses to residential properties.
14. The site access comprises a splayed entrance between Moorcroft and 33 Top Street. The entrance is bordered by a brick wall with vegetation above which impairs visibility from emerging traffic at the site access. Top Street is subject to a 30mph speed limit. At my late morning weekday site visit I observed a moderate flow of traffic on Top Street. Whilst this is a snapshot in time, there is nonetheless nothing in the evidence before me to indicate that these observations are atypical of the area.
15. The proposal includes the provision of a 2-metre overrun area, which, it is stated, would create the illusion that the useable carriageway is narrower, introducing an element of traffic calming which would reduce traffic speeds along Top Street. The Council accept that this would slow traffic along Top Street and would provide an improvement to visibility at the site access in both directions. This would reduce the risk of collision for vehicles emerging from the site access. However, concerns are raised regarding a lack of details of the overrun area. It is also stated that street lighting would be required. However, there is no evidence that Top Street is not satisfactorily illuminated, and, given the limited scope of the works proposed, I am satisfied that engineering details could be dealt with by condition.
16. Concerns regarding whether the proposed measures would receive the support of the Parish Council and local community are noted. However, it would appear that, given the minor scope of works involved, a Traffic Regulation Order would not be required for these works. Given this, there is no particular evidence that the support of the Parish Council and local community would be necessary to ensure that the overrun area could be implemented.
17. With the benefit of the proposed traffic calming measures, which could be secured by condition, I am satisfied that the proposal would achieve adequate visibility at the site access and that drivers exiting the site would be able to do so without increasing the risk of accidents with vehicles and other road users. Therefore, I conclude that the proposal would not have a harmful effect on highway safety in accordance with CS Policy CS6 which requires that development proposals are designed to be safe and accessible to all.

### *Spatial strategy*

18. The appeal site borders the settlement boundary for Whittington, which is defined as a community hub in the SAMDev. CS Policies CS4 and CS5 and SAMDev Policies S14.2, MD1, MD3 and MD7 direct new development to areas within existing settlements including Community Hubs so as to prevent inappropriate forms of development in the countryside, to ensure sustainable forms of development which maintain and enhance countryside vitality, to minimise trip generation, and to ensure that the character of the countryside is protected.
19. The site is within the countryside for planning purposes. However, the settlement boundary is physically very close to the site, and I saw at my site visit that the

- proposed development would not appear visually detached from Whittington, indeed access to the site would be gained between 2 dwellings and the proposal would border residential development to the west. The site frontage appears indistinguishable from other parts of Whittington and the site has the outward appearance of being within the village. Given this, the site relates well to Whittington and the dwellings would not appear disconnected from the settlement.
20. Future occupiers of the development would have access to services and facilities in Whittington. Routes to the services and facilities in Whittington would involve safe and convenient footways and the distances involved do not preclude some of these journeys being undertaken on foot or by cycle. The site is located within walking distance of bus stops on Boot Street with services to nearby settlements. Given this, future occupants would not necessarily be reliant on private motor vehicles which are the least sustainable form of transport. Additionally, the development could lead to further use and support of facilities and services, contributing to the vitality of Whittington.
21. SAMDev Policy S14.2 (vi), states that Whittington will support approximately 100 new dwellings over the plan period and SAMDev Policy MD3 continues that if the development guideline numbers are exceeded additional considerations must be had. Whilst the main parties disagree on the number of houses that have been granted approval and have either been, or are likely to be, delivered, they nonetheless agree that the development would further exceed this guideline. However, I am mindful that this guideline has already been breached through previous developments and there is no particular evidence before me that the exceedance of these targets by an additional 6 dwellings would place an unacceptable pressure on local infrastructure or push community goodwill beyond breaking point.
22. My attention has been drawn to an appeal decision<sup>1</sup> in which the Inspector found that a proposal for development adjacent to the settlement boundary was contrary to the settlement strategy policies in the development plan. Limited details of this appeal are before me. Nonetheless, in their decision the Inspector commented that the site formed a well-defined edge to the settlement and clearly forms part of, and makes a positive contribution to, the rural character of the village's setting, and that the proposed dwellings would be viewed as a somewhat disjointed adjunct to the village which would present as an obvious protrusion into the countryside beyond the clear and well established edge created by the existing dwellings. Given this, it appears that the site characteristics, and the way in which the site relates to the adjacent settlement, differ substantially from the proposal before me.
23. The proposal would conflict with CS policies CS1, CS4 and CS5 and SAMDev policies MD1, MD3, MD7a and S14.2 (vi), which set out the spatial strategy and hierarchy for residential development. However, whilst outside of the settlement, the proposal would be located in close proximity to and would relate well to Whittington. Given this, the proposal would not result in a form of development that conflicts with the spatial strategy's aim of directing development to Community Hubs and Community Clusters, and consequently would accord with the wider aims of these policies which seek to direct new development to the most sustainable locations. Given this, no harm would arise from this conflict.

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<sup>1</sup> APP/L3245/W/23/3320163

## **Planning Balance**

24. The Council has confirmed that it is unable to demonstrate a 5 year housing land supply. The provisions of paragraph 11d of the Framework would therefore apply. This requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
25. The proposal would provide 6 new dwellings on a small site in a location which is accessible to local facilities and services and would meet a local need for smaller single storey dwellings. There would be social and economic benefits to local services during the construction and occupancy phases. These matters weigh in favour of the proposal, and, when factoring in the supply shortfall, attract moderate and meaningful weight as a scheme benefit.
26. On the other hand, I am not satisfied that an affordable housing contribution could be secured. The proposal would therefore fail to provide a suitable mix of types of dwellings and would not address the needs of a group with a specific housing requirement. The adverse impact of making no affordable housing provision infringes on the principles of sustainable development outlined in Chapter 5 of the Framework, which require that development meets identified local need and provides a mix of tenures in order to create diverse communities. This is a matter which weighs heavily against the scheme. Additionally, due to inadequate proposals for waste collection, the proposal would fail to provide acceptable living conditions for future occupiers. Conflict therefore arises with Chapter 12 of the Framework.
27. Consequently, I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal therefore does not benefit from the presumption in favour of sustainable development.

## **Conclusion**

28. The proposal would conflict with the development plan. Material considerations, including the Framework, do not indicate that the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

*N Robinson*

INSPECTOR