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## Appeal Decision

Site visit made on 15 December 2014

**by Victoria Lucas-Gosnold LLB MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 5 January 2015**

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**Appeal Ref: APP/L3245/A/14/2227347**

**The Magnolias, Bomere Heath, Shrewsbury, SY4 3QJ**

- 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 & Mrs M. Jones against the decision of Shropshire Council.
  - The application Ref 14/03064/OUT, dated 8 July 2014, was refused by notice dated 26 August 2014.
  - The development proposed is erection of 1 no. 4 bedroom dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline with all other matters except access reserved.

### Main Issue

3. The main issue is whether the development proposed would be acceptable with regard to the principle of sustainable development.

### Reasons

4. The appeal site currently forms part of the garden area associated with 'The Magnolias' which is a large, detached dwelling. The appeal site fronts onto the highway and a private lane runs along the side of it. On the opposite side of the highway facing the site, lie open fields. Fields also surround the site in the direction of Bomere Heath, separating the site from that settlement. The appeal proposal would see the construction of a four bedroom, detached dwelling.

### *Planning policy context*

5. The settlement of Merrington has been described as both a hamlet and a village. However, policy HS3 of the Shrewsbury and Atcham Borough Local Plan does not identify Merrington as a settlement for residential growth. Therefore for local policy purposes, the site is in a countryside location.
6. Policy CS5 of the 'Shropshire Local Development Framework: Core Strategy' (Adopted March 2011) states that new development will be strictly controlled in accordance with national planning policies protecting the countryside. The policy goes on to state that proposals on appropriate sites which maintain and

enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. In relation to new housing proposals, the policy identifies specific types of development including dwellings for agricultural, forestry or other essential countryside workers or other affordable housing / accommodation to meet a local need. The proposal is for an open market property. Therefore neither of these policy exceptions are relevant to the appeal proposal.

7. The text accompanying policy CS6 goes on to state that more detailed policies relating to rural sustainable development will be developed in the Council's SAMDev DPD. Whilst that document has now been submitted, an Examination has not yet taken place. As such, the Council accepts that full weight cannot yet be attributed to the SamDev document, particularly relating to housing policies as there are significant unresolved objections. Accordingly, whilst I note that Merrington has not been identified as a location for housing growth (either a community hub or cluster) in the SAMDev I attach limited weight to this consideration.
8. The National Planning Policy Framework (the 'Framework') states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances (paragraph 55).
9. The Council's overall approach in seeking to promote sustainable development in rural areas is therefore largely consistent with the Framework. However, with regard to new housing in open countryside locations, the Framework does not specifically rule out housing development in certain types of rural settlements. Rather, it refers to new homes that would be 'isolated'. There is therefore a slight conflict with local policy in this regard.
10. There is no definition of the meaning of 'isolated' within the Framework for the purposes of paragraph 55. The appeal site is surrounded by open fields to the south and east and these do serve to visually separate the site from the more built up area of the village. However, there are a few scattered dwellings along the road close to the appeal site and there is also a small business park immediately next to the site on the other side of the private lane as well as a care facility. I therefore seem to me that the appeal site is not isolated in the strictest sense as it would be located on the edge of a small cluster of ribbon development which lines the highway. I therefore consider that this appeal turns on whether or not the proposal would promote sustainable rural development and I shall now go on to consider this issue.

#### *Access to services and facilities*

11. In terms of services and facilities within Merrington, there is the business park next to the appeal site. I understand that this was granted permission as a change of use from agricultural buildings to 9 workshops in 2002. There is also a care facility. Bomere Heath is a larger settlement than Merrington and is approximately 1Km away. Within the village, facilities include places of worship, a school, shops, a takeaway, a public house, post office, village hall,

sports club and an industrial estate to the south of the village. I also understand that fibre optic broadband is proposed for 2014.

12. Within Bomere Heath there is a primary school with a pre-school facility. There is also a secondary school in Baschurch which is approximately 4.3 miles from the appeal site along with another school approximately 3 miles away in a suburb of Shrewsbury. A further education college which also provides a children's day nursery facility is approximately 2.8 miles away. The settlement of Battlefield is also approximately 3.5 miles away from the appeal site, where employment opportunities are available.
13. There is therefore a range of services and facilities available in the local area. In terms of sustainable transport connectivity, although the appeal site is close to Bomere Heath it is separated from that settlement by a narrow, country lane. Although it may be within walking distance, there are no pavements or streetlights along the highway at this point. I therefore consider it unlikely that future occupants would choose to walk or cycle to that village. This is because future occupants would be highly unlikely to perceive walking or cycling along unlit, narrow country lanes on dark winter mornings as a desirable or safe option.
14. There is a bus service which stops outside the public house in Bomere Heath, providing connections to the towns of Shrewsbury and Oswestry, where a greater range of services and facilities are available. However, future occupants would need to first travel to Bomere Heath in order to access this service. For the reasons given above, I consider that they would be likely to do so via the private car. Similarly, although Shrewsbury and Wem may have railway stations, future occupants would be likely to have to travel to those stations via the car. Moreover, the likelihood is that future occupants are less likely to choose to undertake part of a journey via bus or train if they are required to drive some distance to the nearest bus stop or train station. Whilst this does not mean that the appeal site can be considered 'remote', it does mean that future occupants of the development proposed would be more likely to be reliant on the private car.
15. I acknowledge that whether or not future occupants would choose to commute to Shrewsbury is to a certain extent a matter of speculation. However, considering what choices future occupants are likely to make in accessing goods and services is essentially a matter of judgement. Larger towns such as Shrewsbury by definition have a greater range and density of services, facilities and employment opportunities available. This is the reason why towns tend to attract a greater number of visitors as a result. I acknowledge that there are limited services available in the local area which future occupants may choose to use, including the adjacent business site and care home facility. However, there is a strong possibility that they are more likely to choose to travel to the larger towns nearby via the private car in order to work and to meet their day to day needs, for example shopping at the supermarket, accessing healthcare or participating in leisure activities such as going to the cinema.
16. The advent of online shopping and banking may mean that a range of goods and services can now be ordered via the web thereby reducing the need for some car journeys. However, this factor alone would be unlikely to remove the need for future occupants to undertake the majority of journeys via a car in order to access the necessary range of goods and services.

17. The appellants have questioned the Council's rationale in identifying some settlements as clusters or hubs for new development in relation to the availability of services and whether or not occupants would be reliant on the private car. However, I have previously explained the reasons why I have attached limited weight to the SAMDev DPD. Therefore, I have assessed this appeal proposal on its own merits and with regard to the particular circumstances of the case before me and relevant national and local policy.

#### *Social considerations*

18. There is some dispute between the parties as to whether or not the Council is able to identify a five-year supply of deliverable housing land. I acknowledge that the proposal would contribute one additional dwelling to housing supply in the area and would be a social benefit. However, whilst I have borne in mind paragraphs 47, 48 and 49 of the Framework, given the small scale of the development proposed, the weight I attach to this consideration is limited.
19. Policy CS11 of the Council's CS seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing. Although the appellants have referred to completed affordable housing contributions being sent to the Council, there is no specific mechanism before me in the form of either a completed s. 106 agreement or Unilateral Undertaking that would secure this. I therefore cannot be certain that an affordable housing contribution would be provided, were the appeal to succeed. This is therefore a matter which does not weigh in favour of the proposal.
20. The existing dwelling on the site, 'The Magnolias' would still be situated within a large plot even if this appeal were to succeed. I am therefore satisfied that the proposal would not be harmful to the living conditions of the occupants of that dwelling in this regard. However a lack of harm in this respect is a neutral consideration and does not therefore weigh in favour of the development proposed.

#### *Economic considerations*

21. I am advised that a CIL payment would be provided as a result of the proposal. Whilst this may not be returned to Merrington, this would be likely to be of limited benefit to the local area including Bomere Heath.
22. The proposal would create some jobs during its construction phase, were the appeal to succeed. However, by definition the duration of those jobs would be limited. Future occupants of the proposed dwelling may well purchase goods and services in the local area which may also be of benefit to the local economy. Whilst I attach some weight in favour of these considerations, that weight must be limited so as to reflect the scale of the development proposed.

#### *Access*

23. The proposed access would be sited off the private lane close to the existing access for the business park. The Parish Council have raised concerns regarding the proposed access, stating that it would be on a bad bend on a narrow busy road. However, the existing business park opposite also uses an access onto the private lane at this point. During the site visit I was able to observe several vehicles entering and exiting the business park. There is also little specific information before me regarding highway safety concerns or any

accident data regarding incidents that have occurred in this location. The scale of the development proposed is also relatively small.

24. I am therefore satisfied that the proposed access would not be harmful to highway safety and I note that the Council and the highway authority did not object to the proposal in this regard, subject to conditions. However a lack of harm in this respect is a neutral consideration and therefore does not weigh in favour of the appeal proposal.

#### *Environmental considerations*

25. Whilst the appeal site may be garden land and not agricultural, the Framework's Annex 2 definition of previously developed land does specifically exclude private residential gardens. The site is therefore 'greenfield' for the purposes of planning policy. However, there is nothing in the Framework which specifically rules out the development of Greenfield land. Therefore notwithstanding whether or not the proposal would be infill development, this is also a neutral consideration. This is also the case with regard to a lack of harm in terms of the effect of the proposal on ecology.
26. Matters relating to detailed design and appearance are reserved at this stage, however there is little information before me to suggest that the proposal would be harmful in this regard nor that suitable energy efficiency measures could not be incorporated. These are also neutral considerations.

#### *Overall conclusion*

27. Drawing matters together, I have found that future occupants of the dwelling proposed would be likely to be reliant on the private car in order to access a range of goods and services. As such, the proposal would conflict with one of the core planning principles of the Framework which state, among other things, that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
28. The proposal would also fail to ensure an appropriate contribution to the provision of local needs affordable housing is provided in line with policy CS11 of the CS. Notwithstanding the age of the Local Plan, the proposal is also in a countryside location where the new housing development conflicts with policy HS3 of the Local Plan. I have also identified several neutral considerations where a lack of harm does not weigh in favour of the appeal proposal.
29. On the other hand, the proposal would see the construction of one additional dwelling. Some jobs would also be created during the construction phase of the proposal. Additionally, future occupants may choose to purchase goods and services locally. The proposal would therefore have some social and economic benefits. However, I have found that due to the small scale of the development proposed those benefits would be limited. In this case, I conclude that the sustainability benefits do not outweigh the harm that I have found would be a consequence of the development proposed. For these reasons, I consider that the proposal would neither enhance nor maintain the vitality of rural communities in line with paragraph 55 of the Framework.
30. Accordingly, I conclude that the proposal would not be acceptable with regard to the principle of sustainable development. The proposal would therefore conflict with policy HS3 of the Local Plan, policies CS5 and CS11 of the CS and would also paragraph 55 of the Framework (as set out above).

### **Other Matters**

31. I note the proposals for housing development in the area which the appellants have referred to in their grounds of appeal. However, little specific information has been provided to enable me to take a view on them. I have therefore determined this appeal on its own merits and with regard to the particular circumstances of the site.
32. I am in agreement with the appellants that the difficulties referred to which the bus company may have been experiencing are not planning matters and are not therefore relevant to my consideration of this appeal.

### **Conclusion**

33. For the reasons given above, I conclude that the appeal should be dismissed.

*Victoria Lucas-Gosnold*

INSPECTOR