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# Appeal Decision

Site visit made on 15 September 2015

**by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI**

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

**Decision date: 01 October 2015**

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**Appeal Ref: APP/L3245/W/15/3121604**

**Stable Cottage, Land adjoining Tiffany Cottage, Benthall Lane, Benthall, Shropshire TF12 5RJ**

- 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 Miss Elaine Newton against the decision of Shropshire Council.
  - The application Ref 14/01138/OUT, dated 10 March 2014, was refused by notice dated 3 February 2015.
  - The development proposed is the construction of a new dwelling.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application was submitted in outline with all matters reserved. An illustrative block plan shows the footprint and layout of the development. There are also illustrative landscaping details shown and the dwelling is indicatively detailed to be single storey with attic accommodation. The appeal has been considered on this basis.
3. The application description of the proposal explains that the new dwelling would be named Stable Cottage. As this does not describe the nature of the development, this wording has been omitted from the development proposal description under bullet point 4 above.
4. An executed Unilateral Undertaking submitted under Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted which would secure an affordable housing contribution. I will consider the obligation in more detail later in my decision.

## Main Issues

5. The main issues are the effects of the proposal on (a) the living conditions of the occupiers of the proposed dwelling, having regard to outlook, and (b) whether or not the proposal makes sufficient provision for affordable housing.

## Reasons

### *Living conditions*

6. The appeal site comprises land with a frontage hard surfaced area, some vegetation and two electricity pylons, which is situated between Tiffany Cottage

and 16 Benthall Lane. The two pylons are sited approximately 23m from each other, the larger pylon being positioned in the northeast corner of the plot and the other smaller pylon towards the southwest corner of the plot. The power lines which the pylons support are orientated in a north/south direction across the site. The appellant indicates these to be low 33Kv distribution pylons rather than 300Kv transporter pylons.

7. Amongst other matters, Policy CS6 of the Shropshire Local Development Framework Core Strategy (CS) 2011 requires all development to contribute to the health and well-being of communities, including safeguarding residential and local amenity. The National Planning Policy Framework (the Framework) also requires planning to seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings as a core planning principle. These local and national policies are not tailored specifically to the consideration of electricity pylons in relation to residential development. Nevertheless, they require planning to ensure good living conditions for the occupiers of all new development.
8. The appellant indicatively proposes the dwelling to be sited towards the southeast corner of the plot. Frontage car parking would be between this and the road and there would be a garden area between the dwelling and the pylon located towards the southwest part of the site. Within this layout, the pylons and cables above would appear as substantial and stark structures due to their spread, height, grey metal construction and their utilitarian design. Even with a different layout, they would still appear oppressive to any occupiers using their garden, walking to and from the dwelling across the car parking area and from windows within the dwelling given the size of the plot. Therefore, any development would not be conducive to making a place that is attractive and comfortable for people to live in and consequently would not represent good design.
9. With any new dwelling on the site, occupants would be aware of the pylon structures before moving in. However, if they do so, they would experience a poor living environment and they may find that living here is different to what they had imagined, and therefore, I do not consider that this is sufficient justification for the proposal. It is also appreciated that the cables do not emit a hum or buzz noise but this does not overcome the adverse effect that I have identified in relation to outlook.
10. In conclusion, the development would harm the quality of life of the occupants of the new dwelling by reason of the overbearing visual impact of the pylon structures and accordingly, the proposal would conflict with Policy CS6 of the CS.

#### *Affordable Housing*

11. Policy CS11 of the CS seeks to ensure that all new open market housing makes appropriate provision towards local needs affordable housing having regard to the current prevailing target. For a single open market dwelling proposal, the affordable housing provision is expected to be financial in accordance with a formula contained within the Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document (SPD) 2012. The appellant has submitted a legal undertaking to secure the payment of the requisite contribution which has been prepared in consultation with the Council.

12. The need for affordable housing and use of contributions is set out in the CS and the SPD. The SPD sets out a methodology for calculating the contributions allowing for scheme viability to be considered and explains how the monies collected would be spent. On this basis, I find the methodology robust and the approach taken reasonable. Thus, I find the contribution is necessary and meets the statutory tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). As the contribution would result in additional affordable housing provision, it is a benefit that would weigh in favour of the proposal.

*Other matters*

13. The appellant has indicated that the Council has a lack of a five year housing land supply which the proposal would contribute to in a sustainable location. It is unclear whether land supply is deficient and during the appeal the Council has argued that the site is not sustainably located. Nevertheless, even if the appellant is correct, the contribution that this development would make towards an undersupply in this location would be limited by reason of being a single dwelling. Similarly, the affordable housing contribution arising from one dwelling would be limited.
14. Consequently, these benefits would not be significant enough to outweigh the harm resulting from the poor quality residential environment that would serve the occupants of any dwelling. In this regard, the Framework requires high quality design and a good standard of living conditions for the future occupants of buildings which this proposal would not achieve. Accordingly, it is not the sustainable development for which there is a presumption in favour under the Framework.
15. The proposal would comply with the relevant electricity utility requirements for the height and safe working distances below power lines. Such a consideration does not weigh significantly in favour of the proposal because it is a matter of technical compliance.

**Conclusion**

16. The proposal would harm the living conditions of new occupants of the dwelling by reason of the oppressive effect of pylon structures on the site and thus would conflict with Policy CS6 of the CS. Such a conflict would not be outweighed by the proposal's compliance with Policy CS11 of the CS and SPD because I consider the harm to living conditions to be substantial.
17. Having regard to the above and to all other matters raised, including support, I conclude that the appeal should be dismissed.

*Jonathon Parsons*

INSPECTOR