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## Appeal Decision

Hearing held on 15 December 2015

Site visit made on 13 January 2016

**by C Sproule BSc MSc MSc MRTPI MIEnvSc CEnv**

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

**Decision date: 24 May 2016**

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**Appeal Ref: APP/L3245/W/15/3033490**

**Land opposite The Garage, Welshampton, Ellesmere, Shropshire**

- 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 K Egerton against the decision of Shropshire Council.
  - The application Ref 14/02049/OUT, dated 6 May 2014, was refused by notice dated 21 November 2014.
  - The development proposed is outline planning application for the erection of 10 dwellings to include 2 affordables.
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### Decision

1. The appeal is dismissed.

### Procedural Matter and Main Issues

2. The appeal concerns an application made in outline with all matters reserved for determination at a later date, except those in relation to the site access. Differing site addresses are provided on the application form, decision notice and appeal form. All describe the location of the appeal site and at the beginning of the hearing the main parties agreed to the use the address on the appeal form, which provides a clear indication of where the site is.
3. Three appeal decisions were submitted following closure of the hearing as being relevant to the evidence in this appeal.<sup>1</sup> Parties were provided with an opportunity to comment on whether matters within the three decisions had a bearing on the cases made by them.
4. These are the effect of the development proposed on the character and appearance of locality, and whether the appeal scheme would be a form of sustainable development.

### Reasons

#### *Character and appearance*

5. Shropshire Local Development Framework Adopted Core Strategy - March 2011 (CS) policy CS4 states that in the rural area, communities will become more sustainable by, amongst other things, ensuring that all development in Community Hubs and Community Clusters is of a scale and design that is

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<sup>1</sup> Hearing documents 14, 15 and 16

- sympathetic to the character of the settlement and its environs, and satisfies CS policy CS6.
6. CS policy CS5 seeks development in the countryside (and Green Belt) to be strictly controlled in accordance with national planning policies. Within the context of these controls, the policy is permissive of development proposals on appropriate sites that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits.
  7. The reason for refusal confirmed the appeal site to be part of an agricultural field that "...lies outside the main extent of the village...".<sup>2</sup> This, and emerging development plan policy, was addressed by the Council Officer's report on the application. The report noted the appeal site to be in an area defined as countryside and that proposals within the Site Allocations and Management of Development Plan (SAMDev) would not change that.<sup>3</sup> I understand this to be the current position following the adoption of the SAMDev on 17 December 2015.
  8. CS policy CS6 provides sustainable design and development principles. It aims to create sustainable places through development of high quality design using sustainable design principles to achieve an inclusive and accessible environment which respects and enhances local distinctiveness, and which mitigates and adapts to climate change.
  9. CS policy CS17 seeks development to identify, protect, enhance, expand and connect Shropshire's environmental assets by ensuring that all development, amongst other things, protects and enhances the diversity, high quality and character of Shropshire's natural, built and historic environment. All development should not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors.
  10. SAMDev policy S8: *Ellesmere Area* includes policy S8.2(vi) which deals with the Welshampton and Lyneal Cluster. It states that Welshampton and Lyneal is a community cluster where development by infilling, small groups of up to 5 houses and conversions may be acceptable on suitable sites within the development boundaries identified on the proposals map, with housing guidelines of around 20 additional dwellings in Welshampton and 5 additional dwellings in Lyneal. The policy also requires all new housing in the cluster to be served by adequate foul drainage and water supply.
  11. SAMDev policy MD7a: *Managing Housing Development in the Countryside* refers to CS policies CS5 and CS11 and notes that new market housing will be strictly controlled outside Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. It also states that positive consideration will be given to suitably designed and located exception sites and residential conversions.
  12. Section 7 of the National Planning Policy Framework ('the Framework') includes paragraph 56 which states that '*...Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people...*'. In this appeal, 'design' considerations

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<sup>2</sup> And as shown at paragraph 3.25 of the Council's hearing statement

<sup>3</sup> Paragraphs 2.1 and 2.2 of the Council Officer's report on the application

- include the placement of development within the landscape/townscape, rather than details that would be the subject of later decisions.
13. Welshampton has developed along the A495 and the roads and lanes that run from it. This has caused the village to have a somewhat elongated form, with open areas amongst the development within it. Buildings within the village vary in age, design, function and scale. Dwellings occur alongside larger buildings and plots that provide local services. Farmland and associated buildings can be seen around the village which emphasise its rural context.
  14. Agricultural land is more prevalent within the street scene towards the eastern end of the settlement. This is where the appeal site lies. At this eastern end of Welshampton there are a number of small clusters of development, only one of which lies inside the village boundary. These have a degree of separation from the core of the village due to the presence of highways and/or agricultural land. However, these existing small clusters have a clear context by being at highway junctions or at a sharp bend in the road.
  15. Reference was made to a recent planning approval for housing on land to the south of Oswald House and to the south of the appeal site. The approved development would stand on a minor road between existing development to the east and west of it. While I understand that there would be open space between that development and the nearby existing housing, on the basis of the information before me, it would appear as a logical addition to the layout of built development in this location.
  16. In contrast, the appeal proposal would occupy a site that would not have the same or similar relationship to extant development. At present the appeal site is part of an unbuilt frontage on the southern side of the A495 that lies outside the settlement boundary.<sup>4</sup> Despite the presence of a cluster of buildings to the east of the site, by being on the inside of a gentle curve in the road that provides a significant break in development, the appeal site reinforces the rural character of the locality which remains predominant on the eastern approach to the core of the village.
  17. A plan has been supplied that shows a possible housing allocation in 2003 that would have included the appeal site as part of a larger triangular area that would have been bound by two roads. Whereas the development of that triangular area of land would have provided a clear context for the development of the appeal site, the appeal scheme would appear to be a much more isolated development than that recently approved. Its impact would be greater given the absence of development immediately to the west on that side of the A495, and the erosion of the rural landscape would be emphasised by its presence in the prominent location proposed.
  18. Although there are small clusters of development in the locality around the village, the particular circumstances of the appeal site would cause it not to appear as a logical addition to the village.
  19. For the reasons above, the positioning of the development proposed would be harmful to the character and appearance of the locality. Accordingly and in this regard, the appeal scheme conflicts with CS policies CS4, CS5, CS6 and CS17, and SAMDev policy S8.2(vi). It would be poor design that would fail to

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<sup>4</sup> As shown at paragraph 3.25 of the Council's hearing statement

take the opportunities available for improving the character and quality of the area and the way it functions. In such circumstances Framework paragraph 64 states that planning permission should be refused.

### *Sustainable Development*

#### Housing Requirement and the Supply of Deliverable Sites

20. Paragraph 47 of the Framework seeks to boost significantly the supply of housing, with paragraph 49 stating that '*...Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites...'*
21. The appeal scheme would provide additional homes that would contribute to the Framework objective to boost significantly the supply of housing. CS policy CS1 indicates that 35% of Shropshire's residential development over the plan period will be in rural areas to provide a 'rural rebalance'. The policy states: development and investment will be located predominantly in community hubs and community clusters, and will contribute to social and economic vitality; and, outside these settlements development will be primarily for economic diversification and to meet the needs of local communities for affordable housing.
22. When the hearing took place the Council had produced a *Housing Land Supply – Calculation* following publication of the SAMDev Examining Inspector's report on the 30 October 2015. This concluded there to be a 5.53 year supply of deliverable sites for housing.
23. The SAMDev Examining Inspector concluded there to be a 5 year housing land supply in November 2014. In contrast, the appellant's *Shropshire Housing Land Supply Rebuttal – 4 September 2015* concluded there to be a 4.0 year supply of deliverable sites for housing.
24. An unsigned Statement of Common Ground was submitted in November 2015 which noted the areas of agreement and disagreement. It was agreed that a 20% buffer should be used and applied to the whole requirement figure, including any shortfall. A number of matters remained in dispute between the parties, including: whether Shropshire has a 5 year supply of deliverable sites for housing; assumptions on non-delivery rates; the use of a phased approach; the amount of shortfall; the deliverability of specific sites; and, the delivery of rural windfall sites.
25. In determining appeal decision ref: APP/L3245/W/15/3001117,<sup>5</sup> the Inspector noted that only 9,500 of the 27,500 new homes required by the CS had been delivered in the first nine years of the CS. This leaves 18,000 to be completed in the remaining 11 years,<sup>6</sup> which the Council highlights to include existing commitments to 31 March 2015 that amount to 7,521 dwellings.
26. The Council makes allowance for 10% non-delivery of such commitments, which other Inspectors have found to be a sound (or *fair and reasonable*)

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<sup>5</sup> Hearing document 3

<sup>6</sup> Paragraph 17 of the decision letter in relation to APP/L3245/W/15/3001117

approach.<sup>7</sup> There is no policy requirement for this, but such an allowance is often applied to reflect the likelihood of sites not coming forward. While the appellant has referred to delivery in areas with weaker housing markets, problems with specific sites and the proportion of small developments in Shropshire, the Council has provided an effective rebuttal of these points.<sup>8</sup> Given the evidence in this case, it has not been shown that a higher non-delivery rate would be necessary.

27. It has been suggested that the Council should also apply the non-delivery allowance to allocated, SHLAA and affordable housing sites. I accept that the Council would be expected to have, and indicates that it has, a higher level of engagement and awareness in relation to these 'non-committed' sites and their delivery potential. For the reasons above, I find the Council's approach to non-delivery to be appropriate.
28. The appellant has provided a recent appeal decision for a site in Leicestershire where the Inspector addressed a Full Objectively Assessed Need (FOAN) for housing.<sup>9</sup> In that case the Inspector had before him a local plan dating from 2002 and main parties who agreed the policies for housing were out-of-date. The appellant in that case had challenged the Council's FOAN and the Inspector accepted the appellant's alternative FOAN.
29. The appellant in this case notes that: the latest household projections from the Office for National Statistics, published in February 2015, increase to 146,000 from 145,000 at the time of the CS Examination; and, POPGROUP modelling within the Council's Strategic Housing Market Assessment (SHMA) provided a higher figure.<sup>10</sup> However, the only evidence in this case that provides a tested housing need is that of the Council where the existing CS requirement and an associated SHMA have been before the SAMDev Examining Inspector.

#### Phasing

30. The CS Examining Inspector's report is clear regarding: how the CS addresses a phased approach and why a less prescriptive policy was proposed for the adopted plan; and, an intention to assess the 5 year housing land supply against the overall target of 27,500 rather than the 5 year phased targets (or ranges in spatial zones).<sup>11</sup>
31. However, the *Explanation to CS policy CS10 : Managed Release of Housing Land* includes CS paragraph 5.5 which states that development will be phased in 5 year time bands, and it explains why. The Council has explained why it uses the trajectory.
32. During the hearing, reference was made to an inquiry held in October 2015 (ref: APP/L3245/W/15/3011886 - 'the Longden Road, Shrewsbury appeal') that heard evidence in relation to Shropshire's 5 year housing land supply position. The inquiry decision was issued on 19 January 2016.<sup>12</sup> Evidence to the

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<sup>7</sup> Paragraphs including 33 of appeal ref: APP/L3245/W/15/3011886 and 37 of in appeal ref: APP/L3245/W/15/3003171, and paragraph 69 of the SAMDev Examining Inspector's report

<sup>8</sup> For example, Section 4 of the Council's *Response to the Berry's Rebuttal of the: Shropshire Council Five Year Housing Land Supply Statement*

<sup>9</sup> Hearing document 16 - appeal decision ref: APP/G2435/W/15/3005052 - Land South of Greenhill Road, Coalville, Leicestershire

<sup>10</sup> Paragraph 2.1 of the appellant's *Shropshire Housing Land Supply Rebuttal*, 4 September 2015

<sup>11</sup> Paragraphs 58 and 60 of hearing Document 8

<sup>12</sup> At hearing document 15

Longden Road, Shrewsbury inquiry caused the Inspector to: note that the SAMDev Examining Inspector accepted the CS phasing bands as the requirement for calculating 5 year housing land supply; and, conclude that given the phasing set out in the CS the Council's approach is reasonable and accords with the second bullet point of Framework paragraph 47.<sup>13</sup> There is no evidence in this case that would cause me to take a different view on the appropriateness of that approach.

The amount of shortfall

33. Using a straightforward annualised approach, the appellant had calculated the undersupply to be 2,875,<sup>14</sup> as opposed to the Council's figure of 2,010 using the phased approach described by CS policy CS10 and its *Explanation*. Given my conclusions above in relation to phasing, the appropriate shortfall figure is 2,010.
34. The Council's *Housing Land Supply – Calculation* confirms the use of the 'Sedgefield' approach to address the shortfall in housing delivery during the previous years of the plan period. This approach applies the shortfall to the requirement for the following 5 years of the plan, which accords with the Framework objective to boost significantly the supply of housing and Planning Practice Guidance in regard to the treatment of a shortfall.

Conclusion on housing requirement

35. Consequently, the under-delivery and requirement amount to 8,960 dwellings. To this is added the agreed 20% buffer, which results in the total requirement of 10,752.<sup>15</sup>

Deliverability of specific sites

36. Table 3 of the appellant's *Shropshire Housing Land Supply Rebuttal* lists sites that the appellant considers to have resulted in over-counting in the Council's 5 year housing land supply figure. Table 3 indicates the over-counting to have amounted to 962 dwellings.
37. Section 4 of the Council's *Response to the Berrys' Rebuttal of the: Shropshire Council Five Year Housing Land Supply Statement* addresses each of the listed sites. It provides the Council's view on matters relevant to the inclusion of sites within the appellant's Table 3 including delivery/build out rates, recent/ongoing discussions with landowners, known developer interest and site specific issues. If some of these explanations were to prove optimistic or site circumstances were to change, the 10% allowance for non-delivery (referred to above) would be expected to address it.
38. In total, the appellant considers the Council's housing land supply should be reduced by 2,561 dwellings.<sup>16</sup> Footnote 11 of the Framework indicates what matters inform a decision on whether a site is deliverable. Circumstances on a particular site may change. However, sufficient evidence has been provided by the Council to support its position on the sites referred to by the appellant and associated conclusions drawn by the Council and the SAMDev Examination in regard to deliverability.

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<sup>13</sup> Paragraph 21 of hearing document 15

<sup>14</sup> Paragraph 2.13 of the appellant's *Shropshire Housing Land Supply Rebuttal*

<sup>15</sup> And as set out in the Council's 5 year Supply Statement of 30-Oct-15

<sup>16</sup> Paragraph 3.41 of the appellant's *Shropshire Housing Land Supply Rebuttal*

### Windfall sites

39. SAMDev policy MD3 addresses the delivery of new homes in Shropshire. It is permissive of sustainable forms of housing development and provides criteria that windfall development, that would contribute towards meeting housing need, would be judged against.
40. Paragraph 4.9 of the appellant's *Shropshire Housing Land Supply Rebuttal* notes that CS policy CS1 plans for 10,000 dwellings in the rural area over the plan period, and 5,985 of this requirement is not designated to a settlement. Paragraph 4.9 refers to the adjoining Table 4, which provides the appellant's breakdown of rural housing delivery and concludes that 2,544 dwellings remain to be delivered to 2026.
41. In considering the minimum level of housing required by CS policy CS1, the SAMDev Examination Inspector's report, dated 30 October 2015, identifies that a significant proportion (approximately 35%) of the remaining housing requirement is expected to come forward through windfalls during the plan period. Approximately 67% would be needed in the rural areas to achieve the guidelines for development set out in Community Hubs and Clusters, which are the subject of CS Policy CS4. The SAMDev Inspector notes that a reliance on windfalls does not provide certainty and commitment comparable to allocated sites, but that historically windfall development has been a major component of Shropshire's housing land supply.<sup>17</sup>
42. During the hearing both main parties had an opportunity to address these figures. The Council has highlighted that the average rate of delivery over the first nine years of the plan period is 246 dwellings per annum, which exceeds the 224 per annum of rural windfalls required for the remainder of the plan period.<sup>18</sup> The SAMDev Examination Inspector concluded that the Council's approach was proportionate and justified.<sup>19</sup> Insufficient evidence has been provided to contradict this conclusion and demonstrate that the Council's position on rural windfalls is anything other than robust.

### Conclusion on housing land supply

43. The Longden Road, Shrewsbury inquiry heard evidence relevant to matters within the appellant's rebuttal on housing land supply and concluded that: the Council has a 5.38 years supply of deliverable sites for housing; and, the Council's policies for the supply of housing are up-to-date.
44. The Longden Road, Shrewsbury appeal and appeal ref: APP/L3245/W/15/3007929 ('the Condoval appeal') provide the most recent evidence before me in relation to the 5 year housing land supply in Shropshire.<sup>20</sup> Other decisions referred to include appeal ref: APP/L3245/W/15/3003171 ('the West Felton appeal'), which also took place during October 2015 and was issued in November 2015.<sup>21</sup> The Condoval and

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<sup>17</sup> Approximately 35% is derived from 9,593 dwellings on allocated sites and 5,062 windfalls for the 14,655 dwellings that remained to be provided. Paragraphs 44 and 45 of the SAMDev Examination Inspector's report and paragraph 4.87 of hearing document 9

<sup>18</sup> Page 23 of the Council's *Response to the Berry's Rebuttal of the: Shropshire Council Five Year Housing land Supply Statement*

<sup>19</sup> Paragraph 45 of the SAMDev Examination Inspector's report

<sup>20</sup> Hearing documents 14 and 15

<sup>21</sup> Hearing document 4

West Felton appeals also concluded that the Council had a 5 year supply of deliverable sites for housing.<sup>22</sup>

45. There is no evidence in this case that would cause me to take a different view in relation to the Council having a 5 year supply of deliverable sites for housing. Accordingly and in regard to Framework paragraph 49, relevant Council planning policies for the supply of housing are up-to-date.

#### Highway safety

46. The Highway Authority has raised no objection to the proposal, which would create a highway access with visibility splays suitable for the observed conditions. Given the nature of the highway and the traffic movements along the A495 at the appeal site, the proposed junction layout would provide a safe and suitable access to the development. Framework paragraph 32 is clear that *'...Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe...'*, and no such impacts have been identified in this case.

#### Economic Dimension

47. Paragraph 7 of the Framework confirms there to be three dimensions to sustainable development, namely economic, social and environmental. Developing new homes would result in economic benefit through the economic activity associated with their construction and occupation. In accordance with Framework paragraph 19 (and 28), rural economic growth through the provision of construction jobs and the sale of construction materials, and expenditure during occupation of the houses, attracts significant weight in this case.

#### Social Dimension

48. CS policy CS11 deals with the type and affordability of housing and in doing so, it seeks to meet the diverse housing needs of Shropshire residents. Of the 10 dwellings proposed, 2 would be affordable homes. Attention has also been drawn to the aging population within the village. The appeal scheme would provide new housing opportunities that may attract younger families. Occupiers of the dwellings would be likely to use, support, and thus help to retain services within the village and elsewhere. Therefore, the provision of housing and affordable units would yield social benefits that meet Framework objectives and attract significant weight in favour of the appeal scheme.

#### Environmental Dimension

49. Matters dealt with under the first main issue are relevant to the environmental dimension.
50. In addition, the appeal site is next to a main road in a relatively accessible location. It would be in close proximity to services in Welshampton, and would be expected to support those in nearby villages. Therefore, the accessibility of the site attracts considerable weight in favour of the proposal.

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<sup>22</sup> Paragraph 42 of hearing document 4 and paragraph 21 of hearing document 14



## **Conclusion**

51. For the reasons above and within the context of the evidence in this case, the appeal scheme conflicts with CS policies CS4, CS5, CS6 and CS17, and SAMDev policy S8.2(vi), and with policies in Section 7 of the Framework.
52. The proposed development would provide the economic, social and environmental benefits described above. However, the identified harm significantly and demonstrably outweighs the benefits when considered within the context of local and national planning policy. As a result, the appeal scheme would not be a form of sustainable development and conflicts with SAMDev policy MD3.
53. All matters raised in this case, including the scope of possible planning conditions, have been considered. Taken as a whole the proposal is clearly not compliant with the development plan and would not be a form of sustainable development. Nor are there any material considerations that warrant a decision other than in accordance with the development plan. Accordingly, the appeal should be dismissed.

*Clive Sproule*

INSPECTOR

Richborough Estates

**APPEARANCES**

FOR THE APPELLANT:

M W Parrish  
FPCS MIED

The Planning Group Ltd

David Richards

The Planning Group Ltd

Helen Howie  
MRTPI

Berrys

Paul Middleton

Roger Parry & Partners

David Egerton

K G Egerton

FOR THE LOCAL PLANNING AUTHORITY:

Jane Preece

Shropshire Council

Edward West  
MCD MRTPI

Shropshire Council

Richborough Estates

## **DOCUMENTS**

1. Drawing No. 856/14/02 – Existing Block Plan
2. Appeal decision ref: APP/L3245/W/15/3135723 – Land off Baschurch Road, Bomere Heath, Shrewsbury, Shropshire SY4 3QW
3. Appeal decision ref: APP/L3245/W/15/3001117 – Land off A49 and Bromfield Road, Ludlow, Shropshire SY8 1DY
4. Appeal decision ref: APP/L3245/W/15/3003171 – Land at The Cross, West Felton, Oswestry, Shropshire SY11 4EH
5. SAMDev policy MD7a: *Managing Housing Development in the Countryside* – including Inspector’s Main Modifications
6. Shropshire LDF Core Strategy policy CS1: *Strategic Approach*
7. SAMDev policy MD3: *Delivery of Housing Development* – including Inspector’s Main Modifications
8. Report on the Examination into the Shropshire Core Strategy Development Plan Document – ref: PINS/Y3235/429/7
9. Shropshire Council – Five Year Housing Land Supply Statement – 28 August 2015
10. Welshampton Village Design Statement 2002
11. Planning Conditions and Habitats Regulation Assessment Screening Matrix & Appropriate Assessment Statement
12. Shropshire LDF Core Strategy policy CS10: *Meeting Housing Needs*
13. Welshampton and Lyeal Parish Plan 2015

## **DOCUMENTS FOLLOWING CLOSURE**

14. Planning appeal decision ref: APP/L3245/W/15/3007929 – Land East of Station Road, Condover, Shrewsbury SY5 7BQ
15. Planning appeal decision ref: APP/L3245/W/15/3011886 – Longden Road, Shrewsbury, Shropshire
16. Planning appeal decision ref: APP/G2435/W/15/3005052 – Land South of Greenhill Road, Coalville, Leicestershire