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## Appeal Decision

Site visit made on 2 September 2015

**by Mark Dakeyne BA (Hons) MRTPI**

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

**Decision date: 23 September 2015**

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**Appeal Ref: APP/L3245/W/15/3029727**

**Land adjacent to Ash Grove, Wem, Shropshire SY4 5RW**

- 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 Moorland Property Ltd against the decision of Shropshire Council.
  - The application Ref 14/03268/OUT, dated 21 July 2014, was refused by notice dated 30 January 2015.
  - The development proposed is the erection of five pairs of semi-detached dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of five pairs of semi-detached dwellings at land adjacent to Ash Grove, Wem, Shropshire SY4 5RW in accordance with the terms of the application, Ref 14/03268/OUT, dated 21 July 2014, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on this basis.
3. The appellants put forward a revision to the proposal before it was determined by the Council, indicating that the scheme could be considered under the Government's starter home initiative set out in the Written Ministerial Statement dated 15 December 2014. The Council determined the appeal on the basis of the original submission – open market housing with an element of affordable provision.
4. The appellants have reiterated at appeal stage that the proposal should be considered on the basis of the starter homes proposal, their preferred position, but have also indicated that the open market housing proposal with an element of affordable provision could also be considered as an alternative. Whilst the substance of the proposal – an outline application for 10 dwellings – would not change with either of the schemes, the Government's Planning Practice Guidance indicates that the starter homes exception sites policy applies to under-used or unviable industrial and commercial land. The site does not fall into this category of site so the proposal would not fit with the Government's policy as it currently stands. As such my consideration of the appeal is limited to the proposal for open market housing as originally submitted to the Council.
5. The appellants have submitted two Unilateral Undertakings under Section 106 of the Town and Country Planning Act 1990 (S106) both dated 1 September 2015.

The obligations deal with the alternative submissions of starter homes and open market housing with some affordable provision. I will refer to the obligation dealing with open market housing later in this decision.

## **Main Issues**

6. The main issues are:
- (i) whether the proposal would result in a sustainable pattern of development; and,
  - (ii) the effect on the character and appearance of the area.

## **Reasons**

### *Sustainable Pattern of Development*

7. The appeal site lies about 1km to the east of the centre of the market town of Wem. The site is outside the settlement boundary of the town as defined by the North Shropshire Local Plan (LP). The emerging SAMDev Plan<sup>1</sup> which is currently subject to examination also shows the site as beyond the town development boundary albeit close to its eastern limits. As such the proposal would be contrary to Policies CS3 and CS5 of the Council's Core Strategy<sup>2</sup> (CS). The former refers to housing development taking place within the town's development boundaries or on allocated sites whereas the latter strictly controls new development in the countryside. New housing is limited by Policy CS5 to that which is needed to house essential rural workers, affordable housing to meet local needs or through conversion of existing buildings. The proposal is for new build open market housing and, therefore, would not be the type of scheme that would normally be permitted under the policy.
8. However, the development plan anticipates that additional housing will take place in Wem. Policies CS1, CS3 and CS4 of the CS indicate that as a market town Wem will provide balanced housing and employment development to strengthen its economic role, support its community assets and maintain its role as a sustainable place. The CS suggests indicative levels of housing development for Wem during the period of 2006 and 2026 of between 500 and 1000 dwellings. Wem is clearly considered to be a sustainable location for development. In this context the impact on infrastructure such as schools and health services from a modest development is not a reason to withhold permission.
9. The SAMDev, through Policy S17, suggests a housing growth for Wem of around 500 dwellings. It is indicated that some 370 homes have been built or have been committed since 2006. It is stated that the remainder of the requirement would be met by two housing allocations which would provide about 110 dwellings and windfall sites within the development boundary. That said Policy S17 needs to be read alongside Policy MD3 of the SAMDev (Managing Housing Development). Policy MD3 is proposed to be modified<sup>3</sup> such that sustainable housing development other than allocated housing sites will be granted planning permission having regard to other policies of the development plan. The explanation is also proposed to be changed to recognise that windfall development on both brownfield and sustainable greenfield sites is important<sup>4</sup> in order to meet the CS requirement.

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<sup>1</sup> Site Allocations and Management of Development Plan

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

<sup>3</sup> Main Modification MM14

<sup>4</sup> Main Modification MM15

10. Although the SAMDev is close to adoption, the Inspector's report into the examination of the SAMDev has yet to be published. The final form of policies such as MD3 is not certain. Therefore, only moderate weight can be attached to them. At the same time it seems to me that sustainable windfall development outside existing and proposed settlement boundaries will inevitably be required to meet the housing requirements of the CS. In these circumstances reduced weight should be attached to the 'saved' LP settlement boundary and by inference Policies CS3 and CS5 and their application to sites on the edge of or close to settlements where development can take place.
11. In terms of the site itself it lies adjacent to a cul-de-sac of 8 semi-detached ex-army houses, Ash Grove, and would be served by the same vehicular access. Immediately to the west of Ash Grove is a recently completed estate of some 23 semi-detached and terraced shared ownership houses. The latter development is across from the proposed SAMDev settlement boundary on the opposite side of Soulton Road, the B5065. Therefore, the site is not isolated from neighbouring development or the town.
12. Moreover, there would be an almost continuous line of development between the appeal site and the centre of Wem. The only gap is that created by the road frontage to the cricket ground. There would also be a footway linking the site with the town centre, albeit that pedestrians would need to cross the main road. It would be reasonably safe to walk to the centre and the distances involved would be manageable on foot or by cycle. Similarly access on foot or cycle to the large employment site to the north would be feasible. The accessibility of the site is directly comparable with the recent nearby development.
13. The site previously formed part of a munitions depot. Concrete bases are clearly visible towards the front and in the middle of the site. There is evidence that building structures were removed around 2012 due to concerns about the presence of asbestos. Although undergrowth has partially hidden some of the bases, it seems to me that the site falls within the definition of previously developed land (PDL) as set out in Annex 2 to the National Planning Policy Framework (the Framework). This was the view of the Inspector who considered an appeal relating to the site in 2008<sup>5</sup>. The Framework encourages the effective use of PDL. The site is not of high environmental value.
14. Bringing all these strands together I conclude that the proposal would result in a sustainable pattern of development. There would be conflict with Policies CS5 and CS3 but the policies should not be given full weight in this appeal for the reasons given. Moreover, I consider that this conflict would be outweighed by the fact that the development would make use of PDL close to the town and would be in a relatively accessible location. The proposal would have a reasonable degree of consistency with emerging Policy MD3 as sustainable windfall development on brownfield land.

#### *Character and Appearance*

15. The site is currently overgrown with brambles and other undergrowth but also contains various trees which have colonised the site, particularly silver birch and willow. However, despite the presence of vegetation, the site is clearly distinguishable from the woodland to the east of the site because of the concrete bases and the more limited tree cover.

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<sup>5</sup> Appeal decision ref: APP/N3210/A/08/2069358 dated 25 June 2008

16. Although there are open fields to the south of the B5065 and agricultural land to the north between the site and the large industrial estate, the site is contained by Ash Grove to the west and the woodland to the east. Development with 8 houses with a semi-detached form would relate well to the existing developments to the west and would be a logical extension of the enclave of development with well-defined boundaries.
17. The presence of the woodland would limit views of the development on the approach along the B5065 from the north-east such that the proposal would only become readily visible when close to its road frontage when it would be seen alongside Ash Grove. The development would be softened by those trees to the front and rear of the site which are to be retained as part of a woodland management plan and through new planting. In relation to the latter I noted at the site visit that a hawthorn hedge had recently been planted to the site frontage.
18. Accordingly the proposal would have an acceptable impact on the character and appearance of the area. There would be compliance with Policies CS3 and CS6 of the CS in this regard as the development would be of appropriate scale taking into account the local context and the town's character.

*Other Matters*

19. As I have found that the scheme is acceptable judged against the main issues it is not necessary for me to consider the issue of the 5 year housing land supply. The provision of housing, including the affordable homes contribution, is a positive factor whether or not there is a 5 year supply of housing land. New housing would bring economic and social benefits through providing new homes, increased local spend, construction jobs and Community Infrastructure Levy (CIL) contributions. The benefits of the provision of housing is in the context of the Government's policy to significantly boost the supply of housing; the Council's housing figures showing that the supply is only marginally above the 5 year requirement; and that there is a significant challenge for the Council in delivering the total CS housing requirement by 2026. Meeting the requirement appears to be heavily dependent on windfalls such as the appeal site. In these respects the policy position is significantly different to that faced by the Inspector in 2008.
20. The ecological assessment that accompanied the application and the update of 9 May 2015 indicate that the site has limited biodiversity value. Mitigation proposed within the assessment could be controlled by condition. There would be no material conflict with Policy CS17 of the CS in that the site's ecological assets would be protected.
21. Ash Grove would provide an acceptable vehicular access for 8 further dwellings. Visibility at the junction of Ash Grove with Saulton Road is good. Although I note that Policy S17 of the SAMDev refers to congestion concerns at the railway crossing to the east of the town centre this small scale development could not be resisted on such grounds. It is indicated that drainage would be via a sustainable system so surface water flooding would be unlikely to occur.
22. I noted intermittent noise emanating from the nearby industrial estate at the site visit but the development would be separated by an intervening field. The Council has not raised concerns about the living environment and have recently allowed housing with the same relationship.

23. The increased use of Ash Grove would change the environment for existing residents but the impacts would not be significant. The site is large enough to accommodate 8 houses such that they would not unacceptably impact on the privacy or outlook of neighbouring residents. Construction impacts would be temporary and could be mitigated by condition.

#### *Obligations*

24. So far as the obligation that facilitates the affordable housing provision is concerned, it would be in accordance with Policy CS11 of the CS and the relevant Supplementary Planning Document (SPD)<sup>6</sup>. The affordable housing obligation would meet the policy and legal tests set out in the Framework and the CIL Regulations. I note the Council's comments on the detail of the undertaking but consider that the document as worded would be effective in achieving what is intended.

#### **Conclusions and Conditions**

25. I have found the development acceptable against the main issues. There are economic and social gains arising from the scheme and no significant environmental impacts. Although there are tensions with some policies of the development plan and conflict arises, this would be outweighed by other considerations including the fact that Policies CS3 and CS5 of the CS should not be given full weight.
26. For the above reasons the appeal should be allowed.
27. In granting planning permission I have considered the conditions suggested by the Council and referred to elsewhere in the appeal documentation. A condition requiring the submission of reserved matters is required in view of the outline nature of the application. As all matters are reserved a condition referring to the application plans is not needed. The Council suggests that the reserved matters should be submitted within 12 months of this decision but I see no justification for departing from the normal timescale of 3 years. The details of landscaping required as a reserved matter should be based on the landscape management plan submitted with the application and conditioned as such.
28. Construction method statement and contaminated land conditions are required due to the proximity of existing residential development and the nature of the previous use as recommended by the Council's Public Protection Officer. A condition is also necessary to implement the ecological mitigation recommended in the assessment (paragraph 20 refers). Surface water drainage details need to be controlled by condition as recommended by the Council's Drainage Engineer.

*Mark Dakayne*

INSPECTOR

Attached – Schedule of Conditions

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<sup>6</sup> Shropshire Local Development Framework – Type and Affordability of Housing SPD adopted 12 September 2012

### **Schedule of Conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The details of landscaping required by condition no 1 shall be based on the Landscape Management Plan dated March 2015 including Drawing No SR4.
- 5) No development shall take place, including site clearance, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) construction and delivery times;
  - v) the erection and maintenance of security fencing;
  - vi) wheel washing facilities;
  - vii) measures to control the emission of dust and dirt during construction; and,
  - viii) a scheme for recycling/disposing of waste resulting from site clearance and construction works.
- 6) No development shall commence until:
  - (i) a scheme for the investigation and recording of contamination and remediation objectives has been submitted to and approved in writing by the local planning authority;
  - (ii) detailed proposals for the removal, containment or otherwise rendering harmless any contamination (a Remediation Method Statement) have been submitted to and approved in writing by the local planning authority;
  - (iii) the works specified in the Remediation Method Statement have been completed and a Verification Report submitted to and approved in writing by the local planning authority in accordance with the approved scheme; and,
  - (iv) if during remediation works, any contamination is identified that has not been considered in the Remediation Method Statement, then remediation proposals for this material shall be agreed in writing by the local planning authority.
- 7) The development shall be carried out and incorporate the recommendations and mitigation set out within Sections, 8, 9 and 10 of the Ecological Assessment dated 6 October 2014 (Ref: LSP/1240/14.1) unless the local planning authority approve in writing any variation.

- 8) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority.

**END OF SCHEDULE OF CONDITIONS**

Richborough Estates