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## Appeal Decision

Site visit made on 17 September 2018

**by Alexander Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> October 2018**

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**Appeal Ref: APP/L3245/W/18/3201202**

**Woodlands, Adderley Road, Market Drayton TF9 3SW**

- 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 D Bagshaw against the decision of Shropshire Council.
  - The application Ref 17/04154/OUT, dated 23 August 2017, was refused by notice dated 6 November 2017.
  - The development proposed is the erection of a detached self build house on land adjacent to The Woodlands.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was made in outline form with all matters reserved for future consideration. Drawings were submitted with the application indicating the dwelling's siting, layout, scale and appearance. However, these are labelled as indicative only and I have considered them as such.

### Preliminary matter

3. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published and this is a material consideration which should be taken into account from the date of its publication. I have therefore determined the appeal in light of the revised Framework.

### Main Issues

4. The main issues are whether the proposal accords with the Council's housing strategy, with particular regard to its location, and its effect on biodiversity.

### Reasons

#### *Housing Strategy*

5. The appeal site comprises an open field that lies between The Woodlands to the north and commercial units to the south, which form the northern edge of the settlement boundary of Market Drayton. I acknowledge that the site has built development to the north, south and further to the east. However, the urban form of the commercial properties to the south is clearly read as the edge of the settlement. In contrast, the openness and spaciousness of the appeal site is more rural in both character and appearance and read as the open

countryside. Consequently, for the purposes of the development plan, the site is considered to be located within the open countryside.

6. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 40% of these being within the Market Towns and other Key Centres. This is supported by Policy MD1 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015, which states sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres and the Community Hubs and Community Cluster settlements.
7. Policy CS3 of the CS states that the Market Towns and other Key Centres will maintain and enhance their roles in providing facilities and services to their rural hinterland. It goes on to state that balanced housing development will take place within the towns' development boundaries and on sites allocated for development. Market Drayton is identified as one such Market Town.
8. Policy S11 of the SAMDev states that in Market Drayton new housing development will be delivered through the allocation of greenfield sites together with a windfall allowance which reflects opportunities within the town's development plan boundary. It goes on to state that further to Policy MD3 of the SAMDev, the release of further greenfield land for housing will be focused in the north of the town on sustainable sites adjoining the development boundary. Therefore, this element of Policy S11 can only be satisfied subject to the requirements of Policy MD3 being met.
9. Policy MD3 of the SAMDev supports development outside settlements. Paragraphs 2 and 3 of Policy MD3 relate to the settlement housing guidelines, with paragraph 2 confirming that they are a significant policy consideration. Where the settlement housing guideline is unlikely to be met, paragraph 3 allows for additional sites outside the development boundary, subject to satisfying paragraph 2. Therefore, whilst Policy MD3 does allow for additional sites outside the settlement boundaries this is only if the settlement housing guideline is unlikely to be met. Whilst the specific details are not before me, the Council confirm that there is considerable development being undertaken in the town and as such there is no evidence to suggest that the target will not be met within the development plan period. In the absence of any evidence to the contrary, I find no reason to conclude otherwise and as such the proposal would conflict with Policy MD3 and, as a consequence, Policy S11 of the SAMDev.
10. Policy CS5 allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. The proposal would not fall into any of the identified examples. Policy CS5 is complemented by Policy MD7a of the SAMDev, which goes on to state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. As the proposal is for an open market dwelling in the open countryside, it would fail to accord with Policies CS5 and MD7a.
11. The SAMDev identifies Market Drayton as a Market Town for new housing. This additional housing has been identified as being capable of being delivered

within the development boundary. Whilst the plan allows for windfall development, the appeal site is located outside this boundary, in the open countryside where housing development is strictly controlled. As such, the development would fail to accord with the Council's housing strategy, as embodied by Policies CS1, CS3 and CS5 of the CS and Policies S11, MD1, MD3 and MD7a of the SAMDev. It would also fail to accord with the objectives of the Framework.

### *Biodiversity*

12. Paragraph 99 of Circular 06/2005 'Biodiversity and Geological Conservation-statutory obligations and their impact within the planning system' ODPM states that developers should not be required to carry out surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.
13. The Council contend that the proposal has the potential to affect protected species. The site is in proximity of a large number of trees, particularly on the northern boundary of the site and those within the grounds of The Woodlands. Accordingly, there is a reasonable likelihood of protected species being present and affected by the development and, as such, I consider that an Ecological Assessment is required. No such assessment has been submitted.
14. I acknowledge that the proposal is for one dwelling only. However, even a single dwelling can have a harmful effect on protected species. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances<sup>1</sup>. There is no evidence before me to suggest that there are any such exceptional circumstances.
15. I find therefore that in the absence of an ecological assessment of the appeal site it is not possible to ascertain the effect the dwelling would have on protected species. Therefore, the proposal would fail to comply with Policies CS17 of the CS and MD12 of the SAMDev, which, amongst other matters, seek to protect the ecological value of the area.

### **Other Matters**

16. The proposal would be a low energy – fabric first house and therefore would be beneficial to the environment. It would also be located in a sustainable location, in terms of accessibility to services and facilities and would make a positive contribution, albeit very limited, to the supply of housing in Shropshire. The development would also make a contribution to the local economy through the creation of construction jobs and utilising materials sourced from local merchants. I also acknowledge that it would be a self-build dwelling occupied by a local resident, provide some surveillance over the adjacent commercial units and taxes paid by its occupants would support local services. These environmental, economic and social benefits weigh in favour of the proposal. However, given the scale of the proposal I attribute only moderate weight to these benefits.

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<sup>1</sup> Paragraph 99 of Circular 06/2005 *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System*

## **Planning Balance**

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 12 of the Framework states that where a planning application conflicts with an up-to-date development plan permission should not usually be granted. It goes on to state that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
18. The proposal does have some sustainable development features. However, Paragraph 9 of the Framework states that the three overarching objectives of sustainable development should be delivered through the preparation and implementation of plans and the application of the policies in the Framework; they are not criteria against which every decision can or should be judged.
19. The proposal would fail to accord with the development plan by conflicting with its housing strategy and by way of having a potentially harmful effect on protected species. Whilst there would be benefits to the scheme, I do not consider that, individually or cumulatively, these justify a departure from the development plan.
20. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR