



## Appeal Decision

Hearing held on 21 August 2024

Site visit made on 21 August 2024

**by R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 10 September 2024**

**Appeal Ref: APP/L3245/W/24/3344498**

**Land north of Stepliss, Winnington, Shrewsbury, Shropshire SY5 9DQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Christina Evans and Eleanor Evans against the decision of Shropshire Council.
  - The application Ref is 23/04741/FUL.
  - The development proposed is the construction of 2no. local needs dwellings including provision of access, parking, and garaging.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of 2no. local needs dwellings including provision of access, parking and garaging at land north of Stepliss, Winnington, Shrewsbury, Shropshire SY5 9DQ in accordance with the terms of the application, Ref 23/04741/FUL, and subject to the conditions in the attached schedule.

### Applications for costs

2. An application for costs was made by Christina Evans and Eleanor Evans against Shropshire Council. This application is the subject of a separate Decision.

### Procedural Matters

3. During the Hearing, the main parties confirmed that reference to plan 0995 013 Revision A in the Statement of Common Ground (SoCG) was an error, and the correct plan is 0995 013 Revision B. I have taken this into account.

### Background and Main Issue

4. The main parties agree that the appellants' housing need would constitute local need affordable housing (LNAH) and the submitted and signed section 106 agreement would secure this use should the proposal be permitted. On review of the evidence and the section 106 agreement, I am satisfied the housing need is genuine and the agreement is appropriate and executable.
5. The main issue is, therefore, whether the appeal site is a suitable location for the development having regard to relevant local plan policies.

## Reasons

### *Policies*

6. The planning permission was refused with reference to Core Strategy (CS) Policy CS4, Site Allocation and Management of Development (SAMD) Policy MD7a and the Type and Affordability of Housing Supplementary Planning Document (SPD).
7. During the Hearing, the Council confirmed that CS Policies CS5 and CS11 are also relevant to its decision to refuse and although not specifically referred to within the reason for refusal are referenced within SAMD Policy MD7a and CS Policy CS4. Although the appellants consider the policies set out within the reason for refusal are what the proposal should be assessed against, they agree they are aware of these additional policies and had considered them within their evidence.
8. CS Policy CS4 seeks to focus development in the rural area to within Community Hubs and Community Clusters (CHCCs) unless the development complies with CS Policy CS5. According to paragraph 4.67 of the supporting text for Policy CS4 CHCCs are identified by the local community, and the main parties agree that Winnington is not currently considered part of one of these.
9. Therefore, it is necessary to consider the proposal in relation to CS Policy CS5, which controls development within the countryside and Green Belt. Policy CS5 sets out 9 types of development which are considered acceptable in the countryside. This includes housing to meet a local need in accordance with CS Policy CS11, and that development which complies with CS11 will take place primarily in recognised named settlements (RNS) or be linked to other existing development and business activity where this is appropriate.
10. CS Policy CS11 seeks to ensure the diverse housing needs of Shropshire residents, now and in the future, are met. This includes LNAH, and the Council have confirmed that the proposal would accord with the elements of the policy which set out the overall targets for housing need. Policy CS11 goes on to set out various types of housing development which could be acceptable, and this includes permitting exception schemes for LNAH on suitable sites in and adjoining the town, key centres, CHCCs and RNS, subject to suitable scale, design, tenure and prioritisation for local people and arrangement to ensure affordability in perpetuity.
11. SAMD Policy MD7a builds on CS Policies CS5 and CS11, and in relation to protecting the long-term affordability of single plot exception schemes, such as those proposed, they would be subject to size restrictions and the removal of permitted development rights, as well as other appropriate conditions and legal restrictions. Paragraph 3.55 of the supporting text for Policy MD7a makes it clear that criteria for the assessment and treatment of exception schemes are set out in the SPD.
12. From the evidence submitted and confirmed during the Hearing, the main parties agree that the scale, design, size, and tenure of the proposed dwellings would be acceptable, that the section 106 agreement would ensure the affordability in perpetuity of the dwellings, and that conditions could be used to remove permitted development rights.

## *Location*

13. Winnington is within the countryside along an unnamed road heading broadly south-west from the A458. It is roughly centrally located between the identified Shropshire settlements of Westbury and Halfway House, and the Welsh village of Middletown. There is no obvious village centre or any traditionally expected features such as a church or village hall. However, due to the dispersed nature of development through this part of Shropshire, settlements may not necessarily take the form of a traditional village or town and may include a collection of dwellings or small hamlets.
14. Winnington is not identified in the Council's Hierarchy of Settlements (HoS) as an RNS. As the Council have done, this is a reasonable place to start when considering what a settlement is. However, it is recognised that the HoS has been developed since the adoption of the development plan and is not a formally adopted document. Therefore, it holds less weight than the adopted SPD, which amongst other things sets out how to consider the location for exception schemes, such as that proposed.
15. The main parties broadly agree that Winnington would constitute an RNS as defined by the SPD. However, what constitutes the parameters of that settlement and therefore whether the appeal site is within it, adjacent to it, or beyond it is what this appeal turns on.
16. The Council's position is that Winnington consists of 2 specific groups of dwellings along the unnamed road but incorporates the farms set back from them, here-on called Group 1 and Group 2<sup>1</sup>. The appellants consider Winnington to incorporate a wider area including Group 1 and Group 2, but also other properties and farms positioned along and set back from the unnamed road broadly starting just after the A458 junction and finishing by Winnington Lodge Farm, located further behind Group 1, away from the unnamed road.
17. The SPD recognises that whether a group or groups of houses can be considered a RNS is a matter of judgement and I accept that the main parties have valid justifications for their individual assessments including local knowledge, postal addresses, and professional judgement.
18. Paragraph 5.16 of the SPD states that RNS are also characterised by how local people refer to them, and that the views of Local Shropshire Council Members and the Parish Council should be taken into account. In this instance both agree with the appellant with the Local Shropshire Council Member considering Winnington to extend from the A458, along the unnamed road, to the Welsh border, which is some distance beyond Group 1.
19. The SPD also goes on to give pictorial examples of what could be considered a loose-knit and tight-knit settlement and I have taken this into account as well. However, it is recognised that within paragraph 5.15 of the SPD a RNS comprises a group of houses occupied by households from different families.

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<sup>1</sup> Groups 1 and 2 include the following properties, as named on the appellants map within their Development and Access Statement:

Group 1: 6 properties - The Butts and the Barn along the unnamed road, and set back from it the Lower Winnington Farm, Winnington Hall, and Lower Trefnant Farm.

Group 2: 5 properties - Valley View and Abcott along the unnamed road, and set back from it Hawmills Farmhouse, Hargreaves, and Hargreaves Farmhouse.

20. The high incorporation of farms, although appreciably have dwellings attached, within the main parties' descriptions of Winnington, in my mind artificially widens the scope of the settlement away from the unnamed road. This is because farms, by their very nature, would traditionally be located towards the outskirts of a settlement or within the open countryside.
21. Nevertheless, there is a clear nodal pattern of small groupings of houses and associated buildings strung along the unnamed road. These start with those identified in Group 1, 'The Barn' and 'The Butts', then those in Group 2, 'Valley View' and 'Abcott', then 'The Old Rose and Crown' and finally 'Stepliss', with no more appreciable homes between 'Stepliss' and the A458, although it is recognised there are 2 farms.
22. When travelling down the unnamed road, in either direction, there are visual cues between these 4 nodes of houses and in my mind, they form a small dispersed and loose-knit hamlet of homes surrounded by a ring of farms and the open countryside.
23. Accordingly, the proposed appeal site would be situated adjacent to the property known as 'Stepliss' and therefore adjacent to the RNS of Winnington and so comply with CS Policy CS5 and CS11, SAMD Policy MD7a, and the SPD.

### **Other Matters**

24. The main parties brought 2 appeals<sup>2</sup> to my attention, as well as the planning history of 'Stepliss'. Although both appeals dealt with similar proposals, in one the turning factor was the lack of substantive evidence relating to local need, and the other was in a location some distance from the appeal site. Accordingly, they simply serve to show that each case needs to be dealt with on its own merits and do not represent enough similarities to that which is before me to alter my findings. That 'Stepliss' was historically considered by the Council as a house in the countryside, serves to support their position on this matter, but again does not alter my findings.
25. The Council have not found harm on matters relating to highway safety, environmental protection, or ecological factors and there is nothing before me to conclude otherwise. It did identify that the proposal could have an urbanising effect on the character and appearance of the area. However, the Council do not consider this to be to such a great an impact as to be fatal to the proposal, and, in this instance, I find the provision of 2 LNAH would outweigh any limited potential harm to character and appearance.

### **Conditions**

26. The conditions set out within the SoCG have been agreed by the main parties. Minor alterations to 2 conditions, relating to visibility splays and the use of the proposed garages, were agreed during the Hearing. The appellant has also agreed, by signing the SoCG, to the pre-commencement conditions proposed, and this was confirmed during the Hearing.
27. I have, therefore, considered the conditions against the advice in the National Planning Policy Framework (the Framework) and Planning Practice

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<sup>2</sup> The appellants refer to APP/L3245/W/21/3275873 and the Council refers to APP/L3245/W/23/3330024

Guidance, and where necessary have amended them for consistency and clarity.

28. In addition to the standard time limit condition (1), I have imposed condition 2 requiring the development to be carried out in accordance with the approved plans as this provides certainty. Conditions 3, 6, 8, 9 and 12 have been imposed in the interests of highway safety and the provision of a suitable access and parking for the proposal. Condition 4 is required due to the unique risks in the area from historic mining and the protection of human health, whilst condition 5 has been imposed in the interest of character and appearance.

29. Conditions 7 and 11 have been imposed to support local ecology. The specificity of condition 7 means there is no need for additional details to be submitted for approval. However, I have simplified condition 11 to avoid limiting alternative methods of providing external lighting without harming light sensitive protected species.

30. Finally in relation to the LNAH nature of the development, conditions 10 and 13 ensure the Council retain control over the size of the properties in perpetuity, as required by CS Policy CS11.

### **Conclusion**

31. For the reasons given above the appeal scheme would comply with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, allowed.

*RJ Redford*

INSPECTOR

### **APPEARANCES:**

#### FOR THE APPELLANTS:

Dave Richards	Planning Manager The Planning Group
Peter Richards	Director Peter Richards & Co
Holly Walker	Planning Manager Peter Richards & Co

#### FOR THE LOCAL PLANNING AUTHORITY:

Kelvin Hall	Principal Officer Shropshire Council RTPI
Philip Mullineux	Development Manager Shropshire Council MTCP RTPI

Sara Robinson                      Planning Officer  
   Shropshire Council  
   BSc

INTERESTED PARTIES:

Edward Evans                      Appellants' father and local resident  
Ed Potter                              Loton Ward Councillor  
Myles Thomas                      Westbury Parish Councillor

**SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing Nos: 09950 010 Revision B; 09950 011 Revision G; 09950 012 Revision B; 09950 013 Revision B; 09950 014 Revision A; 09950 016 Revision A; 100 Revision B and 101.
- 3) No development shall take place, including any works of site clearance and preparation, until an updated Traffic Management Plan for construction traffic has been submitted to, and approved in writing by, the local planning authority, to include a community communication protocol. The approved Statement shall be adhered to throughout the construction phase of the development.
- 4) a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a mine gas risk assessment has been undertaken to assess the potential for mine gases to exist on the site. The mine gas risk assessment shall be undertaken by a competent person as defined in the National Planning Policy Framework and conducted in accordance with CL:AIRE - Good Practice for Risk Assessment for Coal Mine Gas Emissions; October 2021 and having regard to current Environment Agency guidance Land Contamination: Risk Management (LCRM; 2020). The Report is to be submitted to and approved in writing by the Local Planning Authority before development commences.  
b) In the event of the mine gas risk assessment finding the site to be affected by mine gases a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must have regard to current guidance and standards and ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

- c) The works detailed as being necessary to make safe the mine gases shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with current guidance – Land contamination: risk management (Environment Agency, October 2020; updated July 2023) and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation proposal is subject to the approval in writing by the Local Planning Authority.
- e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the risks from mine gases and any contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land. Verification must be in accordance with current guidance and standards.
- 5) Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
- 6) The development hereby approved shall not be occupied until the first 5 metres of the existing access drive have been surfaced in a bound or block material detail and constructed in accordance with the adopting highway authority's specification.
- 7) The development hereby approved shall not be occupied, until the following wildlife boxes have been erected on the site:
- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
  - A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design), house martins (house martin nesting cups), swallows (swallow nesting cups) and/or small birds (32mm hole, standard design).
  - A minimum of 2 artificial nests of integrated brick design, suitable for swifts (swift bricks). The boxes shall be sited in suitable locations, with a clear flight path and where they will be

unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

For swift bricks: Bricks should be positioned:

- 1) Out of direct sunlight
  - 2) At the highest possible position in the buildings wall
  - 3) In clusters of at least three
  - 4) 50 to 100cm apart
  - 5) Not directly above windows
  - 6) With a clear flightpath to the entrance
  - 7) North or east/west aspects preferred.
- 8) The development hereby approved shall not be occupied until the access, parking and turning areas have been completed and laid out in accordance with the 0995 011 Rev G proposed Site. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.
  - 9) The visibility splays and access shown on drawing No. 100 Revision B shall be free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.
  - 10) The 2 garages hereby permitted shall be used for purposes incidental to the enjoyment of the residential dwelling each is associated with.
  - 11) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.
  - 12) Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary.
  - 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2, Part 1, Class; A, B, C, D and E shall be erected, constructed, or carried out.

**END OF SCHEDULE**