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## Appeal Decision

Hearing held on 20 May 2015

Site visit made on 20 May 2015

**by Nicholas Taylor BA (Hons) MRTPI**

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

**Decision date: 22 June 2015**

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**Appeal Ref: APP/C3240/W/15/3003907**

**Land adjoining Hay House, Tibberton, Newport, Shropshire TF10 8NR**

- 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 White Acre Estates Ltd against the decision of Telford and Wrekin Council.
  - The application Ref TWC/2014/0236, dated 18 March 2014, was refused by notice dated 6 August 2014.
  - The development proposed is outline application for the erection of up to 60 dwellings and associated infrastructure.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. At the Hearing an application for a partial award of costs was made by White Acre Estates Ltd against Telford and Wrekin Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. The application was in outline, with all matters reserved for future determination. It was accompanied by documents which included a Design and Access Statement and an Illustrative Masterplan. Other documents were submitted during the course of the appeal. At the hearing, I was provided with a signed and dated s106 Agreement. I confirm that I have had regard to all of these in reaching my decision.
4. The Council initially gave three reasons for refusing the application. Whilst it subsequently resolved not to defend reasons 1 and 3 at appeal, numerous third parties have raised concerns related particularly to the matters in reason 3.
5. At the time the application was determined, the Council considered that it could not demonstrate a five year supply of deliverable housing land. However, that position was reversed prior to and at the hearing and the Council did not sign the draft Statement of Common Ground.

### Main Issues

6. In the light of the above, the main issues in this case are:

- whether the proposal would comply with the settlement strategy for the area, with regard to the supply of deliverable housing land and the consequent national and local policy implications; and
- the effect of the proposal on the character and appearance of the village and countryside, including whether the setting of nearby listed buildings would be preserved.

## Reasons

### **Settlement strategy**

7. The appeal site comprises approximately two fields amounting to 2.85 hectares on the edge of Tibberton, a moderately large village within open countryside to the north of the large town of Telford.

### *Housing land supply*

8. The first matter to be resolved is whether the Council can currently demonstrate a five year supply of deliverable housing sites, since paragraph 49 of the *National Planning Policy Framework* (the Framework) states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate such a supply. I was presented at the hearing with two contrasting analyses, wherein the appellant argues that the housing requirement should be based on the adopted *Core Strategy*<sup>1</sup> (CS), whilst the Council argues that it should be based on very recent work it commissioned. Applying the current estimate of housing supply, which is detailed, appears to take a fairly conservative approach and was not contested in detail, to the two approaches produces opposing outcomes. The Council conceded, in theory, a 2.5 year supply based on the CS requirement, including a large backlog, but pointed to an 8.2 year supply based on its new requirement.
9. The Government's *Planning Practice Guidance* (PPG) explains that housing requirement figures in up to date local plans should be the starting point for calculating the five year housing supply. However, it is worth quoting at some length from paragraph 030<sup>2</sup>, which goes on to say that "considerable weight should be given to the housing requirement figures in adopted local plans, which have successfully passed through the examination process, unless significant new evidence comes to light (my emphasis). It should be borne in mind that evidence which dates back several years, such as that from revoked regional strategies, may not adequately reflect current needs. Where evidence in local plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints."
10. Policy CS1 of the (CS) sets out the overall quantum and broad distribution of new housing to be provided during the plan period. The Council argues that the CS was adopted some time ago and is now out of date. The requirement in Policy CS 1, maxima of 1330 new dwellings per annum up to 2011 and 700 per annum from 2011-2016, was based on the *West Midlands Regional Strategy*

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<sup>1</sup> *Core Strategy Development Plan Document Adopted 2007*

<sup>2</sup> Ref ID: 3-030-20140306

(WMRS), which was revoked in April 2013. The RSS, and hence CS, requirement was informed by data and projections from before its adoption in 2004. It was also an overtly policy-led figure, part of a strategy to regenerate the West Midlands conurbation and, therefore, arguably does not represent the current objectively assessed needs (OAN) for housing.

11. One of the Framework's main aims is to boost significantly the supply of housing. Paragraph 47 stresses that local planning authorities should use their evidence base to ensure that their local plan meets the full OAN for market and affordable housing in the housing market area. Paragraph 159 states that they should have a clear understanding of housing needs in their area by preparing a Strategic Housing Market Assessment, working with neighbouring authorities where housing market areas cross administrative boundaries. As part of the early stages of preparation of its emerging *Shaping Places Local Plan*, the Council set about establishing an up to date assessment of its OAN by commissioning a study<sup>3</sup> by Peter Brett Associates (PBA). This was carried out following methodology set out in PPG and advice from the Planning Advisory Service, taking account of recent legal rulings and the most up to date national demographic projections. The study concludes that, for practical purposes, Telford and Wrekin forms a single Housing Market Area.
12. The fact that WMRS has been revoked does not automatically undermine its housing requirement, given that it and the CS went through public Examination. However, the data and analysis underpinning it is now quite old and the housing requirement is policy-orientated and not necessarily representative of OAN. It is not unusual in such circumstances for housing requirements to be challenged as being not up to date. In this case, the Council has initiated a process of producing an up to date. Whilst the OAN has not, as the appellant points out, been translated into a policy requirement which has been tested through Examination or, as the Council admits, through rigorous inter-authority working in accordance with the Duty to Co-operate, it is, nevertheless, a very detailed, comprehensive and up to date assessment. Notwithstanding paragraph 47 of the Framework, there is nothing in national policy or guidance to insist that an up to date OAN must exceed an earlier policy requirement.
13. The study does not put forward a specific policy requirement, although it does recommend a preferred demographic-based OAN and suggests that an even higher policy figure could be adopted to meet national and local policy objectives. The Council has used the study's lower, purely OAN-based annual figure of 497, with a 5% buffer taking it to 522, as the basis for its calculation arriving at an 8.2 year supply. I have been given no strong, detailed evidence of persistent (in the sense of having endured almost continuously over a long period of time and through varying market conditions) under-delivery to indicate that a 20% buffer would be more appropriate.
14. The appellant argues that all of this ignores a backlog of approximately 4700 dwellings, indicating a 20% buffer. The Council points to *Zurich Assurance v Winchester City Council 2014* to assert the principle that a future-orientated assessment of OAN should not take account of any shortfall against previous plan targets. The PBA study, by examining market signals, including measures of affordability and changes in house prices, concluded that there was no

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<sup>3</sup> *Telford and Wrekin Objectively Assessed Housing Need Final Report*, Peter Brett Associates, March 2015.

evidence of significant undersupply which ought to influence the OAN. I find that approach to be consistent with paragraph 015 of PPG<sup>4</sup>. Thus, in this instance, the relevance of any backlog and its implications is primarily a matter for the adopted and emerging local plans, not the OAN itself.

15. To conclude on the matter of housing land supply, it is not within the scope of a s78 appeal to replicate the full process of establishing an OAN, let alone the local plan preparation process, but I must reach a conclusion based on the evidence before me. The PBA study represents an initiative by the Council, in response to the requirements of national planning policy and guidance, to assess its OAN. Although I have no evidence that it has as yet been rigorously tested through consultation, at previous appeal or legal challenge, it is credible and very up to date. Consequently, I consider that it is a material consideration of significant weight in this appeal. The Framework requires that housing supply is assessed against the OAN. Whilst the adopted CS remains the starting point, I have found that the analysis upon which its housing requirement (which, in any case, are expressed as maxima, not minima) is now not as up to date as the PBA study. I have not been given persuasive evidence that the historic backlog should be reflected in the OAN. The Council's estimation of its current housing land supply is up to date, realistic and not contested in detail. Overall, therefore, in my judgement, in this particular case, the Council has presented a cogent argument that it can currently demonstrate a five year housing land supply.

*Policy implications of the housing land supply situation*

16. Given that I have found that the Council can demonstrate a five year supply of housing land, paragraph 49 of the Framework is not engaged. Nevertheless, the thrust of the Framework, to boost significantly the supply of housing, remains a significant material consideration. Within the overall housing requirement set out in CS Policy CS 1, the housing needs of the rural area are to be met by a relatively very modest number of approximately 170 new dwellings over the plan period. CS Policy CS 7 goes on to say that development within the rural area will be limited to that necessary to meet the needs of the area and will be focused on three settlements, of which Tibberton is one. Outside of those settlements development is to be limited and strictly controlled within open countryside.
17. Policies H9 and H10 of the *Wrekin Local Plan 1995-2006* (WLP) are saved but are also, as the Council acknowledges, somewhat subservient to the CS as they are older and less strategic. In general terms, they are also more restrictive. In particular, within named settlements, which include Tibberton, H10 seeks to restrict development to one or two dwellings on suitable infill plots within an existing built up frontage, avoid extension of a village into open countryside and ensure compliance with other policies. Neither the CS nor the WLP allocate a specific number of dwellings to Tibberton or define a settlement boundary.
18. Tibberton currently comprises some 160 or so dwellings and has a few services, including a primary school, community shop and pub. It has a moderately good bus service by local rural standards. Although I read and heard a great deal of evidence from a local ward councillor (and former Cabinet Member for Education), the Parish Council and village residents that there are severe capacity issues with the village primary school and other schools in the

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<sup>4</sup> Ref ID: 2a-015-20140306

local authority's area, the Council has not sustained its initial objection to the scheme on those grounds, subject to financial contributions via a s106 Agreement. Nor does the Council now object on the basis of impact on drainage or highways, subject to submission of further details and, in the case of the latter, proposed off-site improvements. Again, I acknowledge the concerns of third parties regarding those and other aspects of infrastructure, such as broadband and mobile phone coverage, but development can potentially help to sustain and encourage investment in local services and infrastructure, as well as place demands on it. Consequently, there are no strong reasons to find in principle that the infrastructure demands of the current proposal are insurmountable.

19. Nevertheless, whilst each case must be examined on its own merits, I accept that the general policy objective of local and national policies is to resist disproportionate levels of development in rural settlements, such as Tibberton, which are likely to be less sustainable locations because of their remoteness from many services and reliance on private means of transport.
20. I have not been given complete information about overall development in the rural area during the CS plan period to date. I heard various estimates, principally ranging from 47 to 72, of the amount of development already in the pipeline, with planning permission, in Tibberton. The Parish Council refers to seven sites within the village identified in the most recent SHLAA<sup>5</sup>, of which three were deemed available, suitable and achievable, together with a number of small infill and garden land proposals. It also refers to recent permissions for over 600 dwellings on two large brownfield sites in the rural area. I accept that policies CS 1 and CS 7 do not amount to a cap on development in the rural area or in Tibberton in particular, but nor do they indicate acceptance of unlimited development. In the context of those policies, existing permissions indicate that the village is already likely to take at least a proportionate share of development, to which the appeal proposal would potentially add very considerably.
21. Whilst Policy CS 7 refers to meeting the needs of the rural area, I have not been directed to any strong evidence of specific need for additional housing in Tibberton. In addition to market housing, the proposal would provide up to 24 affordable dwellings, split 75% social rented and 25% intermediate tenure, as requested by the Council. I heard that 30% of the village's housing is currently rented, although it is not clear what proportion of that meets the definition of affordable. Whilst the village is close to Harper Adams College, a large employer and source of demand for student housing, there is no strong evidence of a particular demand in Tibberton. I heard anecdotal evidence of need for affordable housing for people with a local connection but a recent Parish Council survey found a need for only four affordable dwellings. All in all, whilst the appeal proposal would provide a positive benefit in terms of boosting the supply of housing, including affordable housing, there is limited hard evidence of a specific very local need.
22. To conclude on the first main issue, the Council has satisfactorily demonstrated that a five year supply of housing exists against OAN. In the light of that and the other evidence before me, there is no strong reason why the relevant development plan policies comprising the settlement strategy for the rural area

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<sup>5</sup> Strategic Housing Land Availability Assessment

should be afforded reduced weight. Those policies propose a relatively modest level of development in the rural area and it appears that there is no risk of a shortfall against that figure. However, an important objective of the Framework is to boost the supply of housing, including affordable housing, and the proposed development would contribute to that.

23. Tibberton, specifically, is a settlement in which the development plan envisages some growth. Whilst a significant number of new dwellings has already been permitted, there is no absolute policy limit on the number or firm limit on the capacity of the village's infrastructure, subject to mitigation or improvement to meet individual circumstances. Consequently, I am unable to conclude in this case that, in principle and on purely numeric terms, the proposal would breach a defined, quantitative and abstract limit on the village's size.
24. However, in the view of the settlement strategy's general restraint on development in the less sustainable rural area, the lack of any current, specific identified need within Tibberton and no current shortfall in housing land supply, neither is there any strong, in principle, policy support for the proposal. To fully assess whether the Framework's presumption in favour of sustainable development would apply to the proposal, it remains, therefore, to determine whether the scheme would effectively be outside the village, within open countryside, in which case it would conflict with CS Policy CS7 and WLP Policy H10. I go on to consider that, and related matters, under my second main issue, below.

### ***Character and appearance and setting of listed buildings***

25. The Council and third parties describe Tibberton as an agricultural village. Whilst that may describe its origins, it has, today, expanded beyond that to include large houses and small suburban clusters, although it remains, fundamentally, an attractive place. The Council argues that the existing extent of the village and, therefore, its informal settlement boundary, is formed by a quadrilateral area bounded by four roads. Whilst that is a rudimentary analysis, given that there are both large undeveloped areas within the quadrilateral and fingers of development beyond it, it more approximately describes the settlement's morphology and extent than the appellant's description of rambling and linear form.
26. The most densely built-up part of the village (although still, at most, suburban in density and character), appropriately around the core of church, pub, shop and school, is around the northern side of the quadrilateral. The west, east and south sides are formed by lower density development comprising predominantly detached houses, typically on generous plots, along Back Lane, Cherrington Road and Plantation Road respectively. Tibberton (the road) extends eastwards from the south east corner of the quadrilateral. The development on its northern side is mostly set well back and screened but on the south side, to the east of Hay Street (which is actually a narrow country lane), there is only Hay House and Yew Tree Farm, surrounded by fields.
27. The proposed development would occupy part of those fields, wrapping around Hay House and its outbuildings, thereby extending the general built form of the village beyond the quadrilateral and clearly and considerably into open countryside. A development of such extent would distort the village's built form and, thereby, harm its character. The landscape is fairly flat, meaning that whilst the development would not be unduly prominent in long views,

- neither would it appear contained or screened by strong, existing landscape features. Proposed new edge planting would take many years to mature and would not be sufficiently deep to prevent the development from introducing an unduly urban character to the south eastern approaches to the village.
28. The appellant's *Design and Access Statement* and *Village Character Appraisal* documents accurately describe the predominant character of the village as large, detached houses and gardens, along narrow roads with wide verges. That description is particularly apt with respect to the south eastern part of the village. The character of Cherrington Road and the north side of Tibberton is sylvan and that of the south side of Plantation Road and Tibberton is more open and rural. I was told about pressure for infill and garden development and one large new dwelling is nearing completion opposite the appeal site. However, I have no reason to believe that the existing character is likely to radically change in the near future.
  29. The illustrative masterplan and the appellant's *Design Code* seek to respond to the challenges and constraints of the village's existing character in a number of ways. They establish a building line across the northern part of the site, roughly in line with Hay House and Yew Tree Farm, and stipulate that there would be no more than two dwellings facing the frontages to Plantation Road and Tibberton. Together with strengthened boundary planting, those devices would provide an opportunity for those frontages of the scheme to replicate the low density, sylvan character of that part of the village, albeit it would still extend built development into what is clearly open countryside at present.
  30. Only a single pedestrian access is indicated between the scheme and Hay Street, allowing the existing hedge to remain essentially unbroken. However, new houses would be situated quite close to the back of the hedge. That, coupled with the slight elevation of the site compared with the lane, would result in the scheme visually dominating the environment of Hay Street.
  31. I agree with the Council that the principles underpinning the *Design Code* would be admirable in a neutral context but that, in this case, the effort to ensure that the main road frontages are in keeping with the location would only serve to drive up the density of the remainder of the scheme in practice. The average density of the scheme might not be numerically unduly high, but applied to its edge of village context, the bulk of the scheme would appear unduly dense and tight up to its west, south and east boundaries. The internal character of the proposed scheme would be just as important as the Tibberton and Plantation Road frontages in defining its impact on the character and appearance of the village.
  32. Even though the appellant suggests imposing a condition to ensure adherence to the *Design Code*, thorough adherence at reserved matters stage to principles such as verges, soft frontages and even modestly sized open spaces would be very difficult to achieve in practice. At the hearing, the appellant stressed that the description of development states up to 60 dwellings and maintained that the size of the scheme is design-led. Nevertheless, to grant permission for up to 60 dwellings at outline stage would open the door, in principle, to a scheme which would be likely to be incapable of being made acceptable in terms of scale, layout and design.
  33. Hay House and Yew Tree Farm are Grade II listed buildings. The appellant's Heritage Statement describes them as having evidential and historic value.

Although both have been altered, I consider that they are attractive timber framed rural houses also exhibiting aesthetic value. Notwithstanding unsympathetic outbuildings close to both properties, their positions among open fields on the edge of the village contribute to their significance as heritage assets. The Council does not object to the effect of the proposal on the settings of the buildings and, in principle, I see no reason to disagree, although their setting would undoubtedly be affected and care would be needed at reserved matters stage to ensure that the effects would not be harmful.

34. To conclude with regard to the second main issue, the proposed development would extend the village in such a way as to harm its established form and character as a settlement and to encroach into open countryside. In that respect it would conflict with CS Policy CS 7 and WLP Policy H10(b). The inevitable density of the scheme and its resultant, overly urban form would harm the character and appearance of the area and fail to comply with the urban design objectives of CS Policy CS 15, WLP Policy UD2 and section 7 of the Framework, to a degree that would be unlikely to be capable of being satisfactorily addressed at reserved matters stage.
35. At this outline stage, I have not identified conflict with the landscape design objectives of WLP Policy UD4. I have also concluded that the settings of the nearby listed buildings would be preserved, satisfying the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, section 12 of the Framework and CS Policy CS 14.

### **Other Matters**

36. At the hearing, I was presented with a signed and dated s106 Agreement. As I am dismissing the appeal on other grounds, it is not necessary for me to assess the agreement against the statutory tests in the CIL Regulations and the Framework. The agreement relates to affordable housing provision and financial contributions towards infrastructure in order to mitigate the impacts of the scheme, which I have addressed above. Thus, the agreement itself carries limited positive weight in my decision.
37. I acknowledge that third parties raised a number of detailed issues. I have dealt briefly with some of those in relation to the main issues but they do not lead me to alter my overall conclusion.

### **Conclusion**

38. I have found that the proposed development would represent an extension of development, of an overly urban and high density character, into the countryside, harming the character and appearance of the village and the countryside. Consequently, in the absence of sufficiently strong economic, social or environmental benefits, the development would not comply with the settlement strategy for the area and would not constitute sustainable development. Accordingly, the appeal should be dismissed.

*Nicholas Taylor*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Ken Whitaker	White Acre Estates Ltd
Andrew Piatt	Gately
Ian Grimshaw	TEP
Helena Kelly	TEP

### FOR THE LOCAL PLANNING AUTHORITY:

Vincent Maher	Planner
Darren Oakley	Planner
Councillor Stephen Burrell	Telford and Wrekin Council
Councillor Eric Ashcroft	Parish Council

### INTERESTED PERSONS:

Michelle Caldecott	Resident
James Berry	Resident
Jane Berry	Resident
G M Stokes-Harrison	Resident
F Brian Cooper	Resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Completed s106 Agreement
2. Appeal decision re Cricklade, Wilts APP/Y3940/A/14/2223354
3. Appellant's Closing Statement
4. Plan showing site levels and viewpoint from southwest