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## Appeal Decisions

Site visit made on 18 August 2020

**by William Cooper BA (Hons) MA CMLI**

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

**Decision date: 1<sup>st</sup> October 2020**

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### **Appeal A: APP/W1850/W/20/3246248**

**Plot 1a, Land adjacent to the Village Hall, Aymestrey, Leominster, Herefordshire HR6 9SX**

- 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 Miss Isabel Probert against the decision of Herefordshire Council.
  - The application Ref: 182072, dated 31 May 2018, was refused by notice dated 10 December 2019.
  - The development proposed is a 2 bedroom self-bungalow & garage.
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### **Appeal B: APP/W1850/W/20/3246643**

**Plot 6, Land adjacent to the Village Hall, Aymestrey, Leominster, Herefordshire HR6 9SX**

- 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 Mrs Price against the decision of Herefordshire Council.
  - The application Ref: 182069, dated 31 May 2018, was refused by notice dated 10 December 2019.
  - The development proposed is a self build retirement dormer bungalow with garage.
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### **Appeal C: APP/W1850/W/20/3246261**

**Plot 7, Land adjacent to the Village Hall, Aymestrey, Leominster, Herefordshire HR6 9SX**

- 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 Mr Adam Probert against the decision of Herefordshire Council.
  - The application Ref: 182071, dated 31 May 2018, was refused by notice dated 10 December 2019.
  - The development proposed is a self-build bungalow with 2no. bedrooms & garage.
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## **Decision**

1. The appeals are dismissed.

## **Preliminary Matters**

2. As the proposal relates to the setting of a listed building, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

## **Applications for costs**

3. Applications for costs were made by Miss Isabel Probert, Mrs Price and Mr Adam Probert against Herefordshire Council. These applications are the subject of separate decisions.

### **Main Issues**

4. The main issues in all three appeals are:

- whether the proposal would preserve the setting of the Church of St John the Baptist and St Alkmund Grade I listed building
- whether the appeal site would be a suitable location for the proposed development with reference to the spatial strategy in the development plan, and
- whether the proposal would make adequate provision for sustainable construction, including energy efficiency and renewable energy use.

### **Reasons**

#### *Setting of the listed building*

5. A development site for five dwellings on Plots 1 to 5, which were granted planning permission in 2018<sup>1</sup> (the five-dwelling site) sits between proposed Plot 1a and Plots 6 and 7.
6. Plot 1a is part of a field and is located next to Aymestrey Village Hall's car park. The plot adjoins the northern boundary of the five-dwelling site. Plots 6 and 7 are part of fields, and adjoin the southern boundary of the five-dwelling site. During my site visit, I saw that the internal access road has been constructed within the five-dwelling site, and there was no roadside perimeter hedge along this site.
7. Plot 1a is located approximately 165m south of the Grade I listed building, 'Church of St John the Baptist and St Alkmund' (Ref: 1082113). Plots 6 and 7 are situated approximately 270m south of the listed building.
8. The listed building dates from the twelfth century and its chancel is from that period. The building was extended in the fourteenth century, rebuilt in the sixteenth century and restored in the nineteenth century. The building is constructed of coursed rubble with ashlar dressing and tile roofs. Its fourteenth century tower has four stages with diagonal buttresses and a crenellated parapet. The listed building is located in a churchyard which fronts onto the A4110 road.
9. The churchyard of the listed building includes the 'Churchyard cross in St John the Baptist and St Alkmund's churchyard' scheduled monument (Ref: 1016137). This stone cross is of mediaeval origin, with later additions.
10. The listed church and its small host village of Aymestrey are set in the heart of the Herefordshire countryside, within a valley floor landscape. The relatively straight stretch of A4110 between the hamlet of Mortimer's Cross and Aymestrey, the River Lugg to the east, several wooded belts including along

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<sup>1</sup> Planning Application Ref: 173692.

the river corridor, and the rising ground of the valley sides are key shapers of this linear landscape. Fields sit between these elements.

11. The appeal sites are situated within the northern part of an approximately wedge shaped area of fields, which is located between Mortimer's Cross and the listed church, and between the eastern edge of the A4110 and the wooded river corridor. This wedge is characterised by relatively large scale, open fields with hedgerows, and - with the exception of the single storey Aymestrey Village Hall and property to the south-east of the churchyard - the absence of buildings.
12. The church is a landmark and the monumental mass of its tower is a focal point within the valley floor landscape. At various points travelling along the valley floor towards the listed building, the church tower is revealed to road users and - within the heart of Aymestrey where there is pavement and some clustering of houses and a pub - pedestrians. These viewpoints include the following: longer distance views on leaving Mortimer's Cross, over and between hedgerow vegetation; within the wedge of fields, with a cluster of vistas on the southern approach to the village hall, including from Plots 1a and 7 and the access road to the appeal sites; the village hall car park; within the village on the approach to the churchyard; and from the churchyard itself.
13. As set out by Historic England, the valley more widely bears evidence of an ancient history of hill forts, a Roman road, mediaeval castles and the battle of Mortimer's Cross. As such, the listed building is part of a network of historical reference points which contribute to the appreciation of the valley.
14. The listed building is therefore experienced as a relatively remote country church, set within a small village and a rural valley floor landscape. This landscape 'reads' as a combination of natural environmental features, the A4110, open fields and historic buildings, monuments and sites, some of which date back to medieval times and earlier. The residential pattern in the built-up part of the village is predominantly characterised by linear development of individual plots, and the countryside beyond is predominantly free from buildings.
15. The listed building has evidential, historical and aesthetic value as an example of Herefordshire country church architecture dating from the twelfth to the nineteenth century, which illustrates the use of a range of different historic building materials and techniques. The building also has communal value as part of a landscape dotted with various historic cultural and memorial reference points. Given the above, I consider the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with its historic legibility as a Herefordshire country church, its dominance as a focal point within a linear landscape, and its contribution to a network of historical reference points along the valley.
16. Within this context, the setting of the listed building provides opportunities for visual appreciation of the focal-point landmark function of the church and the dominance of its tower as a historic built element within the valley landscape. Furthermore, the predominantly open and verdant countryside setting of the village and the church contributes to the legibility of the network of historical sites and features in the rural area, relatively free from the distraction of modern urban patterns of residential development.

17. The church tower is visible from appeal plots 1a and 7, and from the access road to all three appeal plots. The tower can also be seen on the approach to the appeal sites, travelling in both directions along the A4110. From the village car park, the tower is visible, as are nearby plot 1a, and in the middle distance, plots 6 and 7. The appeal sites are glimpsed through gaps in hedging on the southern approach to the listed building and from the rising land to the west of the A4110. The three appeal sites are visible from the rising ground along Bacon Lane, to the west of the A4110, and properties along this lane. The combined area of the five-dwelling site and the appeal sites also has some prominence on the brow and gentle bend near the village hall, viewed travelling south.
18. There is thus direct visual connection between the church tower and two of the appeal plots, and the access road to all three plots. Furthermore, the appeal sites are part of a noticeable sequence of locations on the main southern approach to and departure route from the listed building, along the linear landscape of the valley floor. The location and open, rural character of the appeal sites therefore contributes to the appreciation of the dominance of the listed building as a key focal point within the valley floor landscape. This location and character of the sites also contributes to the appreciation of the church's role within a network of historical reference points along the river valley.
19. The access road within the five-dwelling site and the 'homes for sale' signage which I saw during my site visit indicate that there is a realistic prospect of that development being implemented. As such, the five-dwelling scheme is likely to add a pattern of residential development two-deep, set off a cul-de-sac alongside the A4110, which is not characteristic of the setting of the listed building.

*Effect of the Appeal A proposal on the setting of the listed building*

20. The proposed dwelling on Plot 1a would extend the contextually atypical modern urban pattern of residential development alongside the A4110 into open countryside, in a northerly direction, closer to the listed church. It would also expand the footprint, bulk and mass of residential development closer to the village hall and its car park, wrapping around part of two sides of the latter. The driveway, building, domestic activity and paraphernalia including parked vehicles, which would arise from the dwelling, would be noticeable to various extents from the various viewpoints. These are: from the A4110 around the site entrance; from the village hall car park; from the access road and other properties within the site; from Bacon Lane and properties on the rising land to the west of the A4110; and from various other viewpoints within the countryside of the valley floor and sides.
21. Consequently, the proposed dwelling on Plot 1a would erode the open countryside character of the setting of the listed building. The proposal would distract from the view of the church tower from Plot 1a. It would also diminish the contrast between the open countryside and the 'reveal' of the listed building as a dominant built form, experienced within the latter's setting. Furthermore, it would, in accumulation with the anticipated five-dwelling scheme, expand the modern, urbanising pattern of development within the setting of the listed building. This would distract from the appreciation of the

architectural dominance of the listed church and the historic integrity of its valley floor landscape context.

22. Furthermore, if the appeal schemes on Plots 6 and 7 were to be allowed, the Plot 1a proposal would, in combination with the latter, lead to the area of residential development, over and above the five-dwelling scheme, increasing by around half. This would further exacerbate the identified harm to the setting of the listed building.

*Effect of the Appeal B proposal on the setting of the listed building*

23. The proposed dwelling on Plot 6 would expand the atypical modern pattern of residential cul-de-sac development alongside the A4110 into the landscape of open fields, in a southerly direction. It would therefore increase the total area, mass and bulk of residential development within the predominantly open rural setting of the village and the listed country church. The driveway, building, domestic activity and paraphernalia including parked vehicles would be noticeable to various extents from the following viewpoints: from the A4110; from the village hall car park; from the access road and other properties within the site; from Bacon Lane and properties on the rising land to the west of the A4110; and from various other viewpoints within the countryside of the valley floor and sides.
24. Consequently, the proposed dwelling on Plot 6 would erode the open countryside character of the setting of the listed building. It would diminish the contrast between the open countryside and the 'reveal' of the listed building as a dominant built form, experienced within the setting more widely. Furthermore, it would, together with the anticipated five-dwelling scheme, expand the modern, urbanising pattern of development within the setting of the listed building. This would distract from the appreciation of the architectural dominance of the listed church and the historic integrity of its valley floor landscape context.
25. Moreover, if the appeal schemes on Plots 1a and 7 were to be allowed, the Plot 6 proposal would, in combination with the latter, lead to the area of residential development, over and above the five-dwelling scheme, increasing by around half. This would further exacerbate the identified harm to the setting of the listed building.

*Effect of the Appeal C proposal on the setting of the listed building*

26. The proposed dwelling on Plot 7 would expand the atypical modern pattern of residential cul-de-sac development alongside the A4110 into the predominantly open rural setting of the village and the listed country church, in a similar way to that described above for Plot 6.
27. Consequently, the proposed dwelling on Plot 7 would erode the open countryside character of the setting of the listed building. The proposal would also distract from the view of the church tower from Plot 7. It would diminish the contrast between the open countryside and the 'reveal' of the listed building as a dominant built form, experienced within the setting more widely. Furthermore, it would, in accumulation with the anticipated five-dwelling scheme, expand the modern, urbanising pattern of development within the setting of the listed building. This would distract from the appreciation of the

architectural dominance of the listed church and the historic integrity of its valley floor landscape context.

28. Furthermore, if the appeal schemes on Plots 1a and 6 were to be allowed, the Plot 7 proposal would, in combination with the latter, lead to the area of residential development, over and above the five-dwelling scheme, increasing by around half. This would further exacerbate the identified harm to the setting of the listed building.

*Further listed building matters pertaining to all three appeals*

29. The ridge height of the proposed bungalows would be lower than that of the village hall. Nevertheless, this would not negate the effects of the built mass - including chimney stacks - and domestic activities and paraphernalia which would arise from the proposed dwellings.
30. Existing perimeter hedging and potential future planting on the appeal sites and the five-dwelling site would have some degree of softening effect on the proposed dwellings. However, the effectiveness of this would be tempered by seasonal leaf drop and pruning.
31. Whilst acknowledging 'less than substantial harm', the Heritage Assessment (HA) submitted by the appellants expresses the view that the scale of farmland and wooded countryside to built form along the A4110 is such that the 'very essence of Aymestrey and its hinterland' would not be compromised by the proposed three dwellings. The Council's Historic Buildings Officer has not objected to the proposals. Nevertheless, Historic England object to the proposals. Furthermore, for the reasons described above, I find that individually and cumulatively the proposed three dwellings would, in combination with the five-dwelling scheme on the adjacent development site, have a negative impact on the setting of the listed building.
32. I therefore find that the proposals would fail to preserve the setting of the listed building. I give this harm considerable importance and weight in the planning balance of this appeal.
33. Paragraph 193 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the scale of the proposed developments, I find the harm that would result from the three dwellings, individually and together, would be less than substantial in this instance, but nevertheless of considerable importance and weight.
34. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against public benefits of the proposal, including any contribution to securing optimal viable use of listed buildings.
35. The HA describes the proposed dwellings as 'affordable'. However, no substantive evidence of, or mechanism to ensure, the future affordability of the dwellings is presented.
36. The proposals would each provide one dwelling and together provide three dwellings, which the appellants indicate would be occupied by local people. This would, contribute to the county's housing supply, with associated socio-



economic benefit during and after construction. The proposals would also contribute to the supply of self-build dwellings in the county. However, the public benefits in these respects would be limited by the scale of the developments proposed, both individually and in combination.

37. I have had regard to the statutory duties on the Council, under the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). These duties include giving suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area, arising in each base period. There is dispute between the main parties regarding what constitutes suitable development permissions, and whether such sufficient permissions have been given. However, even if, as the appellants assert, the demand for self-build and custom housebuilding in the county were not being met, the public benefits would be limited by the scale of the developments proposed, both individually and in combination.
38. Given the above and in the absence of sufficient public benefit to outweigh the identified harm, I conclude that, on balance, the proposals would fail to preserve the setting and significance of the Grade I listed building. This would fail to satisfy the requirements of the Act and paragraph 196 of the Framework. Furthermore, the proposals would also conflict with Policy LD4 of the Herefordshire Local Plan Core Strategy 2011-2031 (2015) (CS) and Policy AYEnv3 of the Aymestrey Neighbourhood Development Plan 2011-2031 (2019) (NDP). Together the policies seek to ensure that development conserves designated heritage assets and the historic environment. The proposals would also conflict with Policy AYEnv7 of the NDP, which seeks to protect key vistas, including views of Aymestrey Church Tower from the southern approach.

#### *Suitability of location*

39. The appeal sites are not within or adjacent to the main built up area of settlements which are identified under Policy RA2 of the CS as the main focus of proportionate housing development outside Hereford and the county's market towns. The appeal sites are not brownfield. For the reasons described above with regard to the setting of the listed building, the proposals would not contribute positively to their landscape setting within the valley floor. As such, the proposal would not accord with criteria 1 to 3 of Policy RA2 of the CS.
40. With regard to local housing supply and demand. The minimum requirement for housing growth in the NDP area is identified in the NDP as 23. Within this context, the Council indicates that 14 dwellings have been built, 7 committed and there is capacity for 10 more on allocated sites. The NDP identifies land at Mortimer's Cross for around 12 dwellings, subject to meeting various criteria. The above together lead me to find that the appeal proposals are not necessary to achieve a proportionate level of housing growth within the NDP area.
41. The appeal sites lie outside the Aymestrey settlement boundary which is defined in the NDP. Policy AYH2 of the NDP sets out that no residential development will be permitted outside this boundary, unless it complies with one or more provisions of CS policies. Supporting text paragraph 8.10 under Policy AYH2 explains the boundary's rationale of reflecting the character of a small historic settlement with very few modern buildings and no suburban layouts such as cul-de-sacs, and protecting the typically unsettled Riverside

Meadows Landscape Type on the eastern side of the A4110. Given the above, this boundary definition does not appear to be an excessive constraint on housing supply within the NDP area.

42. Policy RA3 of the CS sets out that in rural locations, as defined for example in Neighbourhood Development Plans, residential development will be limited to proposals which satisfy one or more of seven criteria. The proposals do not meet these criteria.
43. The appellants consider that the granting of planning permission for the five-dwelling site shows the adjoining appeal sites to be sustainably located. However, this decision was prior to the making of the NDP, which limits the extent to which the five-dwelling development is analogous to the cases before me.
44. Provision of self-build housing is not an exception contained within Policies RA2 and RA3 of the CS and Policy AYH2 of the NDP. Therefore, the self-build nature of the proposals does not render the location of the sites suitable, in terms of the development plan. I will return to the self-build matter later in this decision.
45. I acknowledge that, judging by the Council's 2018 Annual Monitoring Report<sup>2</sup> (AMR), smaller scale windfall sites for four or fewer dwellings have together contributed substantially to local housing supply. Nevertheless, for the reasons set out above, I conclude that the proposals would undermine the residential development concentration strategy defined within the CS and NDP. Therefore, they would not accord with the spatial strategy in the development plan. As such, the proposals conflict with Policies RA2 and RA3 of the CS and Policy AYH2 of the NDP.

#### *Sustainable construction*

46. Policy AYEnv4 of the NDP encourages development to incorporate a range of measures to reduce the use of fossil fuels. Furthermore, Policy SD1 of the CS requires development to incorporate the following environmentally sustainable design and energy efficiency measures: orientation of buildings; water conservation measures; bicycle storage; waste recycling storage; renewable energy and energy conservation; minimisation of use of non-renewable resources and maximisation of use of recycled and sustainably sourced materials. Policy SD1 of the CS also emphasises that all applications should demonstrate how environmentally sustainable design and energy efficiency have been factored in from the outset.
47. The proposals' Design and Access Statements state that solar panels will be considered and a minimum of Code 3 for Sustainable Homes will be adopted. However, the proposals do not clearly depict specific sustainable construction and energy measures 'up front'. As such, the proposed dwellings are not demonstrably capable of accommodating a sufficiently comprehensive range of measures to satisfy Policy SD1 of the CS and Policy AYEnv4 of the NDP. It is not certain that sufficient measures could be secured by planning condition. Therefore, the proposals would not accord with these policies.

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<sup>2</sup> Paragraph 4.48 of the AMR.



## **Other Matters**

48. The proposals would be located approximately 200m from a stretch of the River Lugg which is part of the River Wye Special Area of Conservation (SAC). As I am dismissing the appeal for other reasons, I have not undertaken an Appropriate Assessment of the proposal.
49. My attention is drawn to appeal decisions which allow self-build development on other sites elsewhere<sup>3</sup>. However, the other schemes differ from the current appeal proposals in that they do not entail harm to the significance of a grade I listed building and one scheme proposes substantially more dwellings than appeal proposals before me. Moreover, the current appeal proposals have their own setting and circumstances and, as such, I assess them on their own merits.

## **Planning Balance and Conclusion**

50. It is not disputed by the main parties that there is a shortfall of around one year's supply of deliverable housing sites in the county. However, given the identified harm to the designated heritage asset, the tilted balance, as set out by Paragraph 11 of the Framework, is not engaged.
51. As set out above, I have determined that the public benefits of the proposal are insufficient to outweigh the less than substantial harm that would be caused to the significance of the heritage asset. Accordingly, I confirm that overall the benefits of the proposals, both individually and together, are insufficient to outweigh the totality of harm that I have identified in relation to the main issues of the cases.
52. The proposed developments would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, appeals A-C fail.

*William Cooper*

INSPECTOR

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<sup>3</sup> Appeal Refs: APP/P1615/W/18/3213122, APP/G2435/W/18/3214451, APP/W1850/W/19/3237354.