



Appeal Decision

Site visit made on 8 December 2015

by **C J Anstey BA (Hons) DipTP DipLA MRTPI**

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

Decision date: 22 June 2016

Appeal Ref: APP/H1840/W/15/3127958

Gwillams Farm, Ombersley Road, Worcester, Worcestershire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by N.B. and M.M. Gwillam, ADA Farming and Cala Homes Midlands Ltd. against Wychavon District Council.
 - The application Ref 14/00401, is dated 24 February 2014
 - The development proposed is 128 homes (77 private & 51 affordable homes) and associated landscape and infrastructure.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. On 9 October 2014 the District Council resolved to grant planning permission for the appeal development subject to conditions and the applicant entering into a Section 106 legal agreement. The resolution specifies that one of the matters to be covered in a legal agreement is the provision of a financial contribution to the *Worcester Transport Strategy (WTS)*.
3. Despite subsequent discussion between the main parties there remains disagreement as to a financial contribution to the *WTS*. In short the District Council and the County Council (i.e. the highway authority) consider that a legal agreement should provide for a contribution of £706,238.52 towards the *WTS*, specifically towards capacity enhancement at the A449 Claines Roundabout. The appellant considers that there should be no such financial contribution. Consequently no provision is made in the submitted Unilateral Undertaking, dated 5 November 2015, in this regard.
4. There is no Community Levy charging schedule for the area in place although it is anticipated that one will be submitted for independent examination later this year.
5. After the site visit I wrote to the two main parties on two occasions seeking additional comments on certain matters. The responses received have been taken into account in reaching my decision.

Main Issue

6. The main issue in this case is whether the appeal proposal makes appropriate provision for highway infrastructure works arising from the development.
-

Reasons

7. *The South Worcestershire Development Plan (SWDP)* was adopted by the District Council on 24 February 2016.
8. *Policy SWDP45/4: Gwillam's Farm (Worcester North urban extension) (17.32ha)* allocates land for 250 dwellings. The appeal site occupies a substantial part of this allocation. *Criterion (vii)* of this policy makes it clear that contributions to infrastructure, including transportation, shall be made in accordance with *Policy SWDP7C: Infrastructure*.
9. *Policy SWDP7* aims to ensure that development provides or contributes towards the provision of infrastructure needed to support it. *Criterion C* is specifically concerned with ensuring that necessary infrastructure to support development is operational at the appropriate time.
10. *Policy SWDP4: Moving Around South Worcestershire* indicates that the *WTS* will be a key element in the successful implementation of the *SWDP*. *Criterion L* specifies that financial contributions towards transport infrastructure will be secured either through the Community Infrastructure charging scheme or developer contributions as appropriate.
11. *Policy SWDP 62: Implementation* states that planning obligations through Section 106 agreements will continue to be sought to provide funding to mitigate negative impacts relating to specific developments.
12. Given that these policies have only recently been adopted and generally align with government guidance relating to infrastructure provision I have afforded them full weight.
13. The amount of housing development provided for in the *SWDP* is considerable as some 28,400 new dwellings are proposed. Such an amount of development will undoubtedly have a significant effect on the highway network. In recognition of this the County Council has produced the *WTS* which broadly identifies the works necessary for tackling the highway impacts of this amount of development, including junction improvements.
14. The County Council considers that over the *SWDP* period the A449 Claines Roundabout, which is about 400m from the appeal site, would operate above capacity and therefore needs to be improved. This is based on modelling which predicts that the junction will experience increased queuing and delay by 2031. Given the material submitted it is my view that the additional trips generated by the appeal proposal is likely to contribute to a deterioration of conditions at the A449 Claines Roundabout over the coming years. Consequently I accept that the appeal proposal should make an appropriate contribution to the A449 Claines Roundabout scheme.
15. The County Council's improvement scheme involves the introduction of a dedicated left turn lane on the northbound approach to the A449 Claines Roundabout, with associated footpath realignment. The total cost of the scheme is estimated to be £1,124,000.00. The Councils consider that the appeal development should make a contribution of £706,238.52 to this scheme.
16. I now consider whether this particular contribution would meet the tests in CIL Regulation 122 and *paragraph 204* of the *National Planning Policy Framework*,

- which are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
17. In a case such as this where the cumulative impact of additional traffic is involved I believe that it is essential that any financial contribution towards a necessary highway scheme is proportionate to the size of the development and the number and direction of trips generated. In this way each relevant development mitigates its own impact. Consequently there needs to be clarity as to the costing of a scheme and the basis on which parties will be required to contribute.
 18. The County Council's required financial contribution of £706,238.52 appears to be based on an assessment of the appeal development's impact on the wider WTS area and not specifically related to the particular junction improvement involved. The highway improvement figure required for the whole of the Gwillams Farm allocation, which amounts to £1,258,067.52, appears to have a similar derivation. Given this I do not consider the obligation required by the Council (i.e. a £706,238.52 for improvements at the A449 Claines roundabout) is fairly and reasonably related in scale and kind to the appeal development. Consequently it does not meet the CIL Regulation tests.
 19. Notwithstanding this it is apparent from my reasoning that the appeal development should make an appropriate contribution to the A449 Claines Roundabout scheme. If properly calculated and apportioned I am confident that such a contribution would meet the CIL Regulation tests. As no other specific contributions to the A449 Claines roundabout scheme have been brought to my attention the limit of 5 pooled contributions would not be exceeded if an appropriate contribution was forthcoming.
 20. No provision is made in the submitted Unilateral Undertaking for a contribution to the A449 Claines roundabout improvement scheme. Consequently if the development was allowed to proceed on the basis of the submitted undertaking the proposal would contribute over the coming years to the unacceptable deterioration of conditions, specifically increased queuing and delay, at the A449 Claines roundabout. This brings the scheme into conflict with *Policies SWDP45/4, SWDP7, SWDP4 and SWDP 62 of the South Worcestershire Development Plan.*
 21. I conclude, therefore, on the main issue that the appeal proposal fails to make appropriate provision for highway infrastructure works arising from the development. As a result the scheme is contrary to local and national planning policy. These findings constitute compelling grounds for dismissing the appeal. I am aware that there is disagreement between the parties as to the detailed wording of the Unilateral Undertaking relating to certain non-highway matters. In the light of my decision I do not consider that it is necessary for me to deal with this detailed wording which would be best addressed by constructive dialogue between the parties. None of the other matters raised, including the previous permission on the site or the various appeals brought to my attention, outweigh the considerations that have led to my decision.

Christopher Anstey
Inspector