
Appeal Decision

Site visit made on 5 June 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 07 June 2017

Appeal Ref: APP/C3240/W/17/3167843

Land off Cherrington Road, Tibberton, Shropshire TF10 8NY

- 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 Saxonby Group against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2016/0891, dated 9 September 2016, was refused by notice dated 20 January 2017.
 - The development proposed is the erection of 10 dwellings and associated infrastructure including the formation of a new access.
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Decision

1. The appeal is dismissed.

Procedural Matters and Policy Context

2. The application was made in outline with all of the reserved matters, except for access, subject to a later consideration. An indicative site layout plan for the erection of ten dwellings has been provided and has been assessed solely on this basis.
 3. The Council has confirmed that an Examination into the replacement Telford and Wrekin Local Plan (TWLP) took place between 30 January and 10 February 2017. It has not been adopted and it is understood that the Council will be consulting on any proposed modifications after the General Election. As the TWLP has now reached a relatively advanced stage, albeit that it has not been adopted, I afford it some weight in decision making terms. I afford the referenced policies in the TWLP limited weight as they have been the subject of objections and the examining Inspector has raised some issues as outlined in the note dated 30 March 2017. Whilst I do not afford the referenced policies in the TWLP full weight in decision making terms, this does not mean that such policies are irrelevant or should be disregarded.
 4. As part of the determination of this appeal, I obtained further clarification from the Council about settlement boundaries and the village of Tibberton. The appellant was also afforded the opportunity to comment on this matter. The Council has commented that *"there is no settlement boundary for Tibberton. Tibberton falls within land defined as countryside"*. The appellant contends that the appeal site falls within the settlement of Tibberton and hence argues that there is no encroachment into the open countryside. This is clearly a matter of dispute between the parties and I deal with this issue later on in this decision.
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5. There is some dispute between the parties in terms of the weight to be given to various policies and their consistency with the National Planning Policy Framework (the Framework). In particular, the appellant has referred me to a number of appeal decisions (for example appeal ref APP/C3240/W/15/30125042 and APP/C3240/W/15/3138598) as well as the High Court judgment between the Borough of Telford and Wrekin v the Secretary of State for Communities and Local Government and Gladman Developments Limited dated 1 December 2016 which related to APP/C3240/W/15/30125042. I have taken into account these appeal decisions and High Court judgment in respect of this appeal.
6. In respect of Policy CS7 of the Telford and Wrekin Council Core Strategy Development Plan Document 2007 (CS), I do not consider that it imposes an absolute blanket protection of the countryside for its own sake. The Framework includes, as one of its 12 core planning principles, that planning should "*recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it*". I do not consider that Policy CS7 is inconsistent with these aims. Consequently, and in this regard, I afford such a development plan policy significant weight.
7. In reason number 1 of the Council's refusal notice it refers to saved Policy OL6 of the Wrekin Local Plan 1995-2006 (LP). The appeal site comprises an agricultural field and in that sense I do not consider that it represents "incidental open land". I have reached this conclusion also having regard to the reasoned justification to the policy which refers to incidental open land as relieving "*the sense of congestion and pressure that might be felt, particularly in the older tradition urban areas*" and references to playing fields and children's play areas in villages. However, whilst I do not consider that this policy is relevant to the determination of the appeal, this does not negate the requirement for any development proposal to have an acceptable impact upon the character and appearance of the area.
8. I consider that saved Policy H10(a) of the LP has very limited weight as it is based on a housing need requirement for the period 1995-2006. The Council appear to also accept this view. Policy H10(b) states that development will not be permitted where "*the site does not cause the loss of an important area of open space, nor cause an extension of the village into open countryside*". I afford Policy 10(b) limited weight as it seeks to impose a blanket protection of open countryside from the point of view of the extension of villages. Instead, and whilst not yet adopted, I afford more weight to Policy H0 10 of the TWLP which would allow limited infilling in settlements such as Tibberton and the reasoned justification to the policy which states that "*the Council anticipates these five settlements accommodating in total around 80 new homes over the lifetime of the Local Plan. It is expected that this new housing will be delivered on small infill sites within existing settlements*". That said, there is no definition of "limited" infilling provided in the policy.
9. The Council maintain that they can demonstrate a deliverable five year supply of housing sites. The appellant does not dispute this view. I have no reason to disagree with the Council's view that it can demonstrate a deliverable five year supply of housing sites. Consequently, it has not been necessary for me to consider whether any of the policies referred to by the Council are relevant to the supply of housing taking into account paragraph 49 of the Framework.

Main Issues

10. The main issues are (i) whether or not the proposal would amount to an encroachment into the open countryside contrary to policies for its protection and the effect of the development on the character and appearance of the village of Tibberton; (ii) the effect of the development upon existing trees on the easterly and western boundaries of the appeal site; (iii) the effect of the existing trees on the site upon the living conditions of the occupiers of the proposed dwellings in terms of outlook and light and (iv) whether or not the appeal proposal would represent a sustainable form of development.

Reasons

Site and proposal

11. The appeal site comprises agricultural land which is located in open countryside and is to the north of Cherrington Road. The southern boundary includes mature hedgerows and to the west are former agricultural buildings and a timber outbuilding which have planning permission for the formation of two dwellings. The latter permission appears to have been implemented.
12. Along the western boundary are a number of trees and along the eastern boundary there is a mature hedgerow and trees. The site is relatively close to the built up part of the village of Tibberton and there is an existing field gate access off Cherrington Road. To the east and beyond the boundary trees and hedgerow is a detached two storey dwelling (45 Cherrington Road) and then a row of bungalows which are arranged in a linear manner.
13. It is proposed to erect ten dwellings on the site of which four would be affordable. A new access would be formed from Cherrington Road and a new footway is proposed from the site to the junction with Back Lane.

Character and appearance

14. Whilst the appeal site is relatively close to the core of Tibberton, when driving up and down Cherrington Road there is a very obvious transition between the more built up part of the village and the appeal site which is more open in appearance and more rural in character. I acknowledge that there is some further development to the west of the site, but in general terms the development which exists to the west of 45 Cherrington Road is more sporadic in nature and the prevailing theme is one of an environment which is more rural, open and less developed than the main built up part of Tibberton to the east.
15. There is no built development opposite the appeal site making the appeal site's connection with the open countryside more apparent to the passer-by. Furthermore, the northern boundary of the site is particularly exposed. I accept that the 30mph speed limit and Tibberton signage is positioned further west than the appeal site, but this does not mean that it represents the physical built up extent of the settlement. In the absence of an actual defined settlement boundary for Tibberton, and based on what I could see as part of my site visit, I conclude that in planning terms the site falls within open countryside.
16. I consider that the site relates visually to the wider farmed landscape. The existence of mature hedgerows along Cherrington Road, as well as the

boundary trees, provide a green and soft edge to the more built up part of Tibberton adding distinctive character to this predominantly rural environment. If ten houses were allowed to be erected on the site, it would have the effect of extending the village into this countryside environment which would be at odds with the aforementioned distinctive character and appearance of the area. Whilst the provision of a new footpath linking the site to the heart of Tibberton would be a positive attribute in terms of improving pedestrian access, I agree with the Council that both this and the likely loss of some existing hedgerow would also seek to introduce a more urbanised feel to the otherwise existing rural setting.

17. Whilst the site layout is indicative, the proposal is nonetheless for ten dwellings. It is therefore necessary for me to consider, in principle, whether in design terms it would be possible to erect ten acceptable dwellings on the site. Whilst it would be physically possible to erect ten dwellings on the site, I am concerned that this would mean that a number of dwellings had to be positioned very close to Cherrington Road and that some would have to be erected to the rear of frontage dwellings. Given the size of the site, I am concerned that it may not be possible to erect ten dwellings on the site without the dwellings appearing dominant and imposing when viewed from Cherrington Road. Furthermore, the likely introduction of back land development would be significantly at odds with the more linear/ribbon form of development which is prevalent to the east of the appeal site. Consequently, I have concerns, in principle, about whether it would be possible to achieve an acceptable design on the site. This adds to my above concern about the overall effect of the proposal upon the character and appearance of the area.
18. In conclusion, significant harm would be caused to the character and appearance of the area. I acknowledge that in respect of Policy H0 10 of the TWLP, the erection of ten dwellings on the site would help to meet the rural housing requirement. However, it is questionable as to whether this proposal would represent "limited infill" given the size of the site, the quantum of development proposed and, as I have concluded, that the site falls within open countryside. Even if one were to conclude that the proposal did accord with the housing strategy and infill aims of Policy H0 10 of the TWLP, and Policy SP3 of the TWLP, this would not outweigh the harm that would be caused to the character and appearance of this countryside/rural environment.
19. For the reasons outlined above, the proposal would not accord with Policy SP4 of the TWLP which states that the Council will only support sustainable development with *"the priority given to maintaining the character and appearance of the countryside"*; the Framework which states that planning should recognise the intrinsic character and beauty of the countryside and that *"good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people"*, and the design aims of saved Policy UD2 of the LP, Policy CS 15 of the CS and Policy BE1 of the TWLP. These are matters which outweigh the contribution that the proposal would make towards the supply of houses in Tibberton (including affordable housing provision) and hence, and in this regard, the proposal's accordance with Policy CS7 of the TWLP.

Trees

20. There are existing trees on the site and they make a positive contribution towards this rural environment.
21. However, this is an outline planning application and final details of layout and landscaping would be considered as part of a reserved matters application. On the evidence that is before me, I consider that it is very likely that ten dwellings could be erected on the site without material harm being caused to the existing trees. Furthermore, I can see no good reason why it would not be possible to site/design dwellings in such a way that the trees did not adversely affect levels of light and outlook for future occupiers of the properties.
22. In this case, I do not consider that it is a pre-requisite to provide a tree survey as part of the submission of an outline planning application, although this would be necessary to accompany the consideration of a reserved matter(s) application which dealt with detailed matters such as design, layout and landscaping.
23. For the above reasons, I consider that in principle the proposal would accord with the amenity aims of saved Policies UD2 and OL11 of the LP and Policy BE1 of the ELP. I do not consider that there is any conflict with BS:5837 (2012) which advises that a tree survey should be carried out at pre-application stage, as such a survey could be undertaken at pre-reserved matters planning application stage when landscaping would be considered in detail by the Council.

Sustainability

24. The proposal would deliver additional housing in the Borough/Tibberton and four of the dwellings would be affordable. These are positive social matters which weigh in favour of the proposal. In addition, the site is close to the built up part of Tibberton and the provision of a new footway would make it safe and convenient for occupiers of the proposed houses to reach most of the day to day facilities and services on foot.
25. The proposal would result in the creation of some employment particularly at construction stage although this would be short lived. I do not doubt that the occupiers of the proposed dwellings would spend some money in Tibberton and hence there would be some local economic benefits arising out of the erection of ten dwellings on the appeal site.
26. However, paragraph 7 of the Framework indicates that there are three dimensions to sustainable development: economic, social and environmental. In this case, I have found that the proposal would cause very significant harm to the character and appearance of the area. This is an environmental matter which significantly and demonstrably outweighs the benefits of the proposal when considered against the Framework as a whole. Furthermore, I have identified that there would be conflict with some adopted and emerging development plan policies. I therefore conclude that the proposal would not deliver a sustainable form of development.
27. The appellant has indicated that they feel that paragraph 14 of the Framework should be engaged as some development plan policies are out of date. I have attributed weight to the various adopted and emerging development plan policies in my reasoning above. However, even if I had concluded that the

development plan policies were out of date, the proposal would still not accord with the environmental/countryside aims of the Framework. Such harm would significantly and demonstrably outweigh the benefits identified in the reasoning above. In this regard, the proposal would still not deliver a sustainable form of development.

Other Matters

28. I have considered the various appeal decisions referred to by the appellant including residential development which has been allowed elsewhere in Tibberton. The development approved (Ref TWC/2015/0395) to the west of the site replaced agricultural buildings and hence the effect upon the essentially open and rural character of the countryside was not directly comparable with the appeal proposal.
29. As regards appeal Ref APP/C3240/W/15/3025042, the Inspector was required to balance a number of other different issues and gave very significant weight to the provision of a greater number of private market and affordable houses. I have determined this appeal on its individual planning merits and have reached a balanced decision. The existence of other approved developments in other parts of Tibberton (or elsewhere) does not alter my overall conclusion on the main issues.
30. As regards planning permission Ref TWC/2016/0150, this is not a directly comparable proposal to the appeal development. This proposal relates to fewer dwellings, has a narrower frontage and is positioned within an environment which is more residential in character. I have also considered the email correspondence between the Council and the appellant about the differences between the appeal site and planning application Ref TWC/2016/0785. I have no reason to disagree with the comments made by the Council about the differences between the proposals.
31. I have considered the fact that the site was included as part of a wider site in the Council's SHLAA. Whilst I have no doubt that the site is available, the fact that it is included in the SHLAA does not automatically mean that planning permission will be forthcoming. A more detailed assessment of the planning application when considered against development plan policies and the Framework has revealed that significant harm would be caused to the character and appearance of the area arising out of its development for ten dwellings.
32. I have taken into account representations made by other interested parties. Many of the comments made have already been addressed in the reasoning above. I note the concerns raised about additional traffic using roads into and out of Tibberton, but I have no objective evidence to indicate that the existing highway network could not support traffic from an additional ten dwellings. I have no reason to disagree with the Highway Authority which raised no objection to the proposal on highway safety grounds. Matters relating to drainage could be controlled by means of the imposition of a planning condition.
33. The appellant has submitted a completed planning obligation which would include 40% on-site affordable housing as well as financial contributions toward highway works, education, a traffic and management scheme on the B5062 within the vicinity of the Black Lane/B5062 junction and Tibberton playing field and recreation facilities. The provision of affordable housing weighs in

favour of the proposal, but it does not outweigh my overall conclusion on the main issues. Even if I had found that the financial contributions were necessary, and reasonably related to the development proposal, any such contributions would have been necessary simply to mitigate the impacts of the proposed development. In other words, any such contributions would have had only a neutral impact in terms of the planning balance. I have not therefore pursued matters further relating to the completed planning obligation

34. I recognise that the proposal would seek to boost the supply of houses in the area, but on the evidence before me the Council can currently demonstrate a deliverable five year supply of housing sites. Therefore, this is not a matter which would outweigh the harm that would be caused to the character and appearance of the area.
35. None of the other matters raised outweigh or alter my final conclusion on the main issues.

Conclusion

36. The proposal would have a significantly detrimental impact upon the character and appearance of the area. This significantly and demonstrably outweighs the benefits of the proposal. Whilst I have found that the tree issues could be suitably addressed at reserved matters planning application stage, this does not overcome my overall conclusion about the effect of the proposal upon the character and appearance of the area. I therefore conclude that the proposal would not deliver a sustainable form of development. Therefore, the appeal is dismissed.

Daniel Hartley

INSPECTOR