



Appeal Decision

Site visit made on 7 September 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 27th September 2017

Appeal Ref: APP/R3705/W/17/3171093

Delves Farm, Boulters Lane, Wood End CV9 2QF

- 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 outline planning permission.
 - The appeal is made by Mr Ken Simmons against North Warwickshire Borough Council.
 - The application Ref PAP/2016/0686, is dated 29 November 2016.
 - The development proposed is the erection of 14 dwellings. Outline application, access to be considered now with all other matters reserved.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 14 dwellings. Outline application, access to be considered now with all other matters reserved, at Delves Farm, Boulters Lane, Wood End CV9 2QF, in accordance with the terms of the application Ref PAP/2016/0686, dated 29 November 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposal as submitted is for outline permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis. The layout plan submitted with the planning application has been taken into account for indicative purposes.
3. It is common ground that as the Council cannot demonstrate a five year housing land supply, paragraph 14 of the National Planning Policy Framework (the Framework) is engaged. Based on the evidence before me, I have no reason to disagree with the consensus view reached on this matter. Paragraph 14 bullet point 4 of the Framework is applied to the proposal as part of the 'planning balance' exercise identified below, following consideration of any 'other matters' and the submitted planning obligation.
4. The Council state that had it been in a position to determine the application it would have refused planning permission based on the effect of the proposal on the character and appearance of the surrounding area. The Council consider that this harm would significantly and demonstrably outweigh the benefits associated with the proposal, when assessed against the policies in the Framework taken as a whole.

Main Issues

5. Based on the evidence before me, the main issues are:

- The effect of the proposal on the character and appearance of the surrounding area; and,
- The planning balance: Whether the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits.

Reasons

Character and Appearance

6. The appeal site comprises agricultural land to the rear of a linear pattern of residential development at Boulters Lane. The site is within the Wood End to Whitacre Landscape Area which describes Wood End as having a core of older vernacular buildings with recent expansion that has not detracted from traditional settlement character.
7. The site has been subject to a dismissed appeal¹ for an identical proposal dated 26 August 2016. The appeal was dismissed on the grounds of its effect on the character and appearance of the surrounding area. The appellant does not dispute the harm identified within the previous appeal decision.
8. The previous Inspector identified that the proposal would introduce back land development that would appear incongruous and unrelated to the village and its strongly linear form of development at the vicinity of the site. Based on all I have seen and read I concur that the proposal would lead to the harm identified by the previous Inspector.
9. Therefore the proposal would have a harmful effect on the character and appearance of the surrounding area. Consequently the proposal would conflict with Policy NW12 of the Local Plan Core Strategy (CS) which seeks to ensure that new development positively improves an individual settlement's character.

Other Matters

10. Concern is raised regarding highway safety. However, based on all I have seen and read, including the comments of the Council, subject to an appropriately worded condition, the proposal would not have a harmful effect on highway safety.
11. Concern has also been raised regarding the effect of the proposal on views from adjoining properties. However, I am mindful of the accepted position taken by the Courts that the right to a private view is not a material consideration in planning matters. Accordingly I afford this matter limited weight.
12. Based on the outline nature of the application and the separation distance between the site and surrounding properties, the proposal would not have a harmful effect on the levels of day/sunlight for neighbouring occupants. In addition, based on the evidence before me, dismissing the appeal on the grounds of local school capacity and flooding would be unjustified.

Planning Obligation

13. A signed and dated Unilateral Undertaking (UU) submitted by the appellant would secure a financial contribution towards off site affordable housing,

¹ APP/R3705/W/16/3150188

calculated using methodology outlined within the Affordable Housing Viability Report. The Council are concerned that the UU would not benefit the immediate locality and that no evidence has been submitted to demonstrate that the need for affordable housing has increased since the previous appeal decision.

14. Nonetheless the financial contribution would meet the requirements of CS Policy NW6 which is based on evidence of affordable housing need. No evidence is before me to indicate that affordable housing needs within the Borough have been met. In my view the obligation would comply with the statutory tests contained in Regulation 122 of The Community Infrastructure Levy Regulations 2010.

Planning Balance

15. A material change in circumstance since the previous decision is that the Council are unable to demonstrate a five year supply of housing land. It is this change in circumstance where the appellant's case for the proposal lies.
16. The emerging Local Plan was recently subject to public consultation. Paragraph 216 of the Framework states that decision-takers may give weight to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency of the policy with the Framework. No information is before regarding the number unresolved objections to the emerging Local Plan but I note that the Council afford it limited weight. Thus, with no substantive reasoning to the contrary, I afford limited weight to the housing land supply within the emerging Local Plan.
17. An appeal decision² for residential development at Ansley is brought to my attention wherein the Inspector concluded that the Council could demonstrate 3.5 years supply of housing land. Since the Ansley decision the Council assert that it can now demonstrate 4.5 years of housing land (uncontested). In any event, it is common ground that paragraph 14 of the Framework is engaged.
18. Paragraph 14 bullet point 4 of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this light, a number of benefits are associated with the proposal.
19. The proposal would contribute to housing supply via its provision of market housing and financial contribution towards affordable housing. In light of the Council's inability to demonstrate a five year supply of housing land, these social benefits are afforded significant weight in favour of the appeal. In addition, economic benefits would arise via the proposal increasing local spend and supporting construction employment. These benefits attract moderate weight in favour of the appeal.
20. The proposal would not meet the environmental dimension of sustainable development by virtue of its harm to the character and appearance of the surrounding area. In this light, I note that the need to take account of the different roles and character of different areas is a core planning principle in the Framework. Furthermore, the Council refer to paragraphs 58 and 109 of

² APP/R3705/W/16/3149572, decision date 6 January 2017.

the Framework which require development to respond to local character and protect valued landscapes.

21. The harm to the character and appearance of the settlement identified above would be noticeable from the proposed access on Boulters Lane and from the rear of adjoining dwellings. As this harm would be localised in extent, it attracts some weight against the proposal and not significant weight as contended by the Council. In the context of paragraph 14 bullet point 4 of the Framework, this level of harm would not significantly and demonstrably outweigh the benefits associated with the proposal when assessed against the policies in the Framework taken as a whole.
22. This is a factor which would outweigh the conflict of the proposal with CS Policy NW12. It is on this basis and for the reasons given above that the appeal should succeed.

Conditions

23. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording in the interests of precision and clarity in order to comply with advice given in the Framework and the Planning Practice Guidance.
24. Conditions 1 – 3 requiring the submission of reserved matters are necessary in view of the outline nature of the application. Condition 4 is necessary in the interests of certainty and would address the Council's concern in relation to the outline permission being for no more than 14 dwellings.
25. Condition 5 is necessary for highway safety purposes. Condition No 6 is necessary to ensure that the site is adequately drained. Condition No 7 is necessary in order to protect the living conditions of neighbouring occupants. Condition No 8 is necessary in the interests of fire safety.

Conclusion

26. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed subject to the attached schedule of conditions.

B Bowker
INSPECTOR

Attached – schedule of conditions

Schedule of conditions

- 1) Details of appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No 7269.151, Proposed Site Plan Drawing No 7269.150E, but only in respect of those matters not reserved for later approval.
- 5) No development shall commence on site until full details of the site's vehicular access and visibility splays onto Boulders Lane together with details of the access and layout of the site itself have first been submitted to and approved in writing by the Local Planning Authority. Development shall then be carried out only in accordance with the approved details prior to the occupation of the dwellings hereby permitted. There shall be no obstruction of any kind within the approved visibility splays.
- 6) No development shall commence on site until a detailed surface and foul water drainage scheme for the development based on sustainable drainage principles and an assessment of the hydrological and geo-hydrological context of the site has first been submitted to and approved in writing by the Local Planning Authority. Development shall then only be carried out in accordance with the approved details.
- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a) The location of storage compounds, haul roads and car parking for site operatives and visitors.
 - b) The hours of working and the hours of delivery of goods, plant and materials.
 - c) Wheel washing facilities and dust suppression measures.
 - d) Noise control during the construction.
 - e) Site lighting details.
 - f) Measures for the protection of trees that are to be retained.
 - g) Details of household refuse collection from occupied dwellings during construction and;
 - h) Details of the contact for any local concerns with the construction activities being undertaken.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 8) No development shall commence on site until a scheme for the provision of adequate water supplies and fire hydrants for fire-fighting purposes at

the site has first been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved scheme has been fully implemented in accordance with the approved details.

Richborough Estates