



Appeal Decision

Inquiry held on 27 February to 1 March 2013

Site visit made on 27 February 2013

by J C Chase MCD Dip Arch RIBA MRTPI

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

Decision date: 25 March 2013

Appeal Ref: APP/T3725/A/12/2184225

**Land east of Wellesbourne Road and land north of Wasperton Lane,
Barford, Warwickshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Sharba Homes (Keys) Ltd against the decision of Warwick District Council.
 - The application Ref W/11/1533, dated 9 December 2011, was refused by notice dated 13 August 2012.
 - The development proposed is 58 houses and a public park.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellants have submitted an Undertaking made in accordance with Section 106 of the Town and Country Planning Act, 1990, the main provision of which is to allocate 23 units as affordable homes, in accordance with Policy SC11 of the Warwick District Council Local Plan (LP), 2007, and the Affordable Housing SPD, 2008. The obligation would meet the tests in para. 204 of the National Planning Policy Framework (the 'Framework') and it is taken into account in this appeal.
3. During the Inquiry, reference was made to the possibility that structures within the appeal site, particularly the front boundary wall, are listed as being within the curtilage of Barford House. This point is noted, but the site is recognised as a heritage asset by falling within the Conservation Area, and whether or not the structures form part of the Listed Building does not significantly affect the analysis carried out in this decision.

Main Issues

4. The main issues are whether the development would preserve or enhance the character or appearance of the Conservation Area and the setting of the Listed Buildings at Barford House, and whether the site is in a sustainable location for the proposed housing and, if not, whether any harm would significantly and demonstrably outweigh the benefits of the development.

Reasons

5. The appeal property is two separate parcels of land, adjoining the Grade II* Listed Building at Barford House, and within the Barford Conservation Area. It

is presently undeveloped, having previously formed part of the Barford House land holding. Whilst outside the Local Plan settlement boundary, the land is close to the core of the village. It is proposed to construct 39 houses, of mixed size and type, on the northern site, and 19, mainly smaller houses, on the southern portion, each of which would be served by new vehicle accesses on to Wellesbourne Road and Wasperton Lane respectively.

Heritage Aspects

6. Barford House dates from the early nineteenth century, and is designed in a neo classical style, with a two storey high colonnaded front wall. Immediately surrounding the house are formal gardens, which remain in its ownership, outside the appeal site, and which are well defined by walls and lines of vegetation. The rear garden has a formal layout, with a central axis leading to a 'temple', listed Grade II in its own right. Evidence given to the Inquiry indicates that part of the adjoining open land was within the early holding, but this was added to during successive ownerships throughout the nineteenth century, reaching a maximum by the beginning of the twentieth century. At some point estate walls were constructed around the property, which survive in varying states of completeness, from the relatively intact walling alongside Wellesbourne Road, to fragmentary remains beside a public footpath on the eastern side of the land. In addition, there is evidence of some of the former uses of the land, which included agricultural activities, such as grazing, pig keeping, a farmery, and an orchard, along with leisure activities.
7. The listing description of Barford House does not refer to the wider estate, but it is clear that the surrounding land formed an integral part of the economic and social life of the house, and both its proximity and historical connection indicate that it forms part of the setting of the Listed Building. Whilst the parties differ in their views about the importance of the land, it seems very likely that it influenced the design of the property. In particular, although the temple is the focus of the vista from the house, its open back enables views of the wider landscape, and there seems little purpose in the retaining walls on either side except to act as a ha-ha, to maintain visual continuity between the garden and estate. Even though the land immediately beyond seems to have been set out as an orchard, rather than parkland, there are adequate reasons to consider that the view it afforded was intended to provide a backdrop to the formal garden, and that its ownership, and the control conferred, were integral to the status of the house and its occupants.
8. The setting of the house in its estate is also evident from outside the property, especially when viewed from Wellesbourne Road, where the boundary wall forms a consistent feature along the frontage, unifying the house with its former land holding on either side. This wall is characteristic of the village, where the remnants of other estate walls line the village streets, and is of particular significance because of its continuity and length. It makes a positive contribution to the Conservation Area, both in terms of its historic appearance, and as evidence of the size and status of Barford House, and its role within the village.
9. Features of the estate are also apparent from elsewhere in the locality, including well established boundary trees and planting, other remnants of the outer wall, and the view across the open site towards the house from the public footpath on the eastern boundary. LP Policy DAP11 strongly resists development that would harm historic parks or gardens on the District Local

Register and, whilst there is no indication that a separate register has been prepared, Barford House is referred to in the accompanying schedule in the Local Plan. The appellants' views on this are noted, including the lack of clarity in the wording, whether the supporting text has been saved alongside the policy, and the absence of a plan to define the boundaries of the affected land. Nonetheless, there is an indication of the recognition of the status of the property, which is reinforced by its inclusion within the Conservation Area. Taking these factors together, it is accepted that the wider estate, and the artefacts that remain from its former use, have significance in their own right. However, the land surrounding the house, including that with the potential to provide a vista eastwards from the rear garden, and the Wellesbourne Road frontage, are most sensitive to change, and are of particular importance.

10. With respect to the Wellesbourne Road estate wall, it is proposed to create an opening of about 21m to accommodate the new road, along with junction radii and sightlines. Whilst this would be a relatively small proportion of the overall length of the boundary, and some replacement walling would be built at a splayed angle, the proposal would break the continuity of the wall, which is a significant part of its contribution to the historic appearance in this location. In addition the new housing would be clearly apparent, both when viewed through the new opening, and the lateral appearance of the first terrace from the street. The form and geometry of the road, and siting of the dwellings, would have a distinctly suburban character, and, whilst it is certainly true that there is post war housing on the opposite side of Wellesbourne Road, this development would be an incursion into the eastern side, which largely retains its historic appearance. Account is taken of earlier appeals concerning this site, including that dated 1978 (APP/5399/A/78/000051) which found little adverse effect on the Conservation Area, but this considered a much less intrusive scheme, and the passage of time, and changed policy background, diminish the weight that may be applied to it.
11. Turning to the effect of surrounding Barford House with new housing, it is accepted that there is limited intervisibility between the formal garden, which is largely enclosed by walls or vegetation, and large portions of the appeal site. Nonetheless, the presence of new housing relatively close to these boundaries would be apparent, especially to the east, where, as indicated, there is reason to consider that the open vista formed part of the design of the house and garden. Overall, there are adequate grounds to conclude that the development would not preserve or enhance the character or appearance of the Conservation Area and the setting of the Listed Buildings at Barford House.
12. Attention has been drawn to LP Policies DAP4 and DAP8, concerning the protection of Listed Buildings and of Conservation Areas respectively, and the appellants' contention that their wording would prohibit any works which would fail to preserve the heritage assets, inconsistent with the balancing process recommended in the Framework. Whilst the assessment of this main issue is made in relation to the statutory duties placed on the decision maker, it is also accepted that the Framework is a material consideration which, in these circumstances, should be given significant weight, and the conclusions at the end of the decision reflect the methodology set out in that document, rather than the more restrictive approach of the Local Plan policies.

Sustainability

13. LP Policy RAP1 identifies Barford as one of a small group of villages where market housing will be permitted, provided it occupies previously developed land, and where it meets a specific local need identified by the community. The site is not previously developed, and, whilst the appellants criticise the methodology of the surveys carried out on behalf of the Parish Council, indicating a limited local housing requirement, neither is there compelling evidence to show that the new dwellings are necessary to meet the specific needs of the village.
14. However, there is a shortfall against the five year supply of deliverable housing sites in the District, as set out in Framework para. 47, and, in these circumstances, para. 49 reinforces the presumption in favour of sustainable development, and indicates that development plan policies for the supply of housing may not be considered up to date. As a result, permission should be granted unless any adverse impacts of doing so would clearly outweigh the benefits. These provisions of the Framework are significant material considerations which outweigh any lack of compliance with LP Policy RAP1.
15. Barford has a limited range of facilities and services, and it is likely that new residents would need to make regular trips outside the village for such purposes as employment, shopping and secondary schooling. Nonetheless, the settlement has been identified as suitable for some further development, including as a Limited Growth Village in the adopted Local Plan, and in the Preferred Options for the emerging Local Plan, issued in May 2012, in which it is designated a Category 1 village, for up to a 100 additional dwellings by 2029. In addition, the Barford Parish Plan, 2005, and the Barford Village Design Statement, 2009, both refer to the potential for housing development in the village, including within parts of the appeal site. These documents are not entitled to substantial weight, the new Local Plan being at an early stage, and the site specific provisions of the Design Statement being excluded from the version adopted by the Council as planning guidance, and they do not confirm that a development of the scale and form proposed would necessarily be appropriate for the village. However, they do provide an indication that Barford has been identified as one of the more sustainable rural locations.
16. It is also the case that the development would support the social role of sustainability, by helping to meet the acknowledged need for housing in the District, and it could be argued that the construction of new houses, and stimulation of demand for local services, would contribute to the economic role. Whilst para. 54 of the Framework refers to the need to meet local demand for housing, this would not necessarily imply that development should be restricted to meeting local requirements alone. These points are taken into account. However, the role of sustainability, set out in para. 7 of the Framework, includes the objective to protect and enhance the historic environment. Even if the development was considered appropriate in other respects, the failure to achieve this objective would prevent the site being considered a sustainable location for the proposed housing.

Other Matter

17. The Council's third reason for refusal refers to the effect of the use of a footpath on the living conditions at No 3 Wellesbourne Road, but the Council now acknowledge that any harm could be adequately overcome by a suitable

planning condition requiring the approval of further details. Whilst this access runs close to the garden and side elevation of No 3, its use would not be likely to create excessive disturbance, and both this, and any potential overlooking, could be ameliorated by appropriate boundary enclosure or planting. There would be adequate distance between the boundary and the windows of the house to ensure that light levels would not be unduly affected. It is accepted that the matter could be resolved by the use of a condition and it would not be a further reason for dismissal of the scheme.

Assessment and Conclusions

18. The conclusions on the main issues give rise to two balancing exercises based on the procedures set out in the Framework. With respect to the impact of development on heritage assets, great weight is placed on their conservation, distinguishing between development which causes substantial harm, and that which gives rise to less than substantial harm. The main parties are divided in their view as to which category the proposal would fall into. However, whilst substantial harm to a Grade II* Listed Building should only be accepted in wholly exceptional circumstances, in either case there is a requirement to show that public benefits arising out of the scheme would outweigh the damage to the heritage asset. Secondly, in the circumstances where the Council are not able to identify a five year supply of deliverable housing land, it is necessary to establish whether the harm arising out of the scheme is of such magnitude as to significantly and demonstrably outweigh the benefits.
19. Attention has been drawn to a number of potential advantages of the scheme, of which the supply of new housing has particular weight. The Council acknowledge that they are not able to demonstrate a five year supply of deliverable sites and, whether the appellants' assessment (1.93 years), or the Council's (2.6 years) is taken, the shortfall is substantial. In addition, the scheme would contribute 23 affordable homes, to meet an identified need in the District, in circumstances where the historic supply has fallen well short of the stated objectives. The Framework places a duty on local planning authorities to identify and meet the housing needs of their area, to which this scheme would contribute.
20. In addition to the economic benefits outlined under the second main issue, there would be environmental advantages, including the provision of public open space. A significant proportion of the northern site would be laid out as a village park, to which the public would be granted rights of access. This would provide a recreational benefit for local residents, including the new occupants of the estate, as well as securing an open environment for the adjacent housing. However, it is also the case that the land would be separated from the main village streets, being accessible down the estate road or footpaths, and would be associated with the new housing development, rather than as a clearly public space. Whilst the appellants' Open Space Statement identifies an overall shortage of public recreational space in the village by comparison with the District average, the Church Lane playing fields are relatively close to the appeal site.
21. Aspects of the property are in a poor condition. This particularly applies to the boundary wall, including that portion alongside Wellesbourne Road, which is heavily eroded and has been subject to indifferent repair, and care and maintenance of boundary planting is necessary to ensure the longevity of the trees. The property appears to have received limited attention for an extended

period. Whilst the responsibility for maintenance clearly lies with the owner, it is also accepted that the potential uses of the land in its present form restrict the income available to fund the repair work. The development proposal would provide the necessary finance, and the grant of planning permission would create the potential to ensure that the remaining heritage items and landscaping would be properly restored and maintained to ensure their survival. However, in the absence of evidence to the contrary, the scale of the development appears greater than that essential to fund the restoration work, and, whilst it is accepted that this benefit is offered alongside the others identified, it is undesirable that the nature of the enabling development should have a harmful effect on the asset it is seeking to preserve.

22. The Grade II* Listed Building is a heritage asset of considerable importance, and the effect on its setting, as well as on the Conservation Area and the setting of the temple, amount to significant and demonstrable harm. The potential advantages of the proposal, and particularly the provision of market and affordable housing, are recognised. However, whether assessed in terms of the heritage objectives of the Framework, or the need to show compelling reasons to outweigh the presumption in favour of development, the benefits of the proposal are clearly outweighed by the damage to designated heritage assets, and in these circumstances the appeal is dismissed.

John Chase

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Leader	Of Counsel instructed by the Director of Development Services
He called	
Mr G Stephens BA, MRTPI, PGCertUD	On behalf of Warwick District Council
Mr A Mayes BA, Dip Arch, IHBC, RIBA	Conservation and Design, Warwick District Council

FOR THE APPELLANTS:

Mr P Goatley	Of Counsel instructed by PJ Planning
He called	
Ms G Stoten BA, MIFA	Cotswold Archaeology
Mr G Parker	PJ Planning
DipTCP(Dist), MRTPI	

INTERESTED PERSONS:

Mr J Murphy	Chairman, Parish Council
Mr R Scott	Secretary, Barford Residents' Association
Dr C Hodgetts	On behalf of DC Conservation Advisory Forum and the Warwickshire Gardens Trust
Mr R Braithwaite	On behalf of a group of local residents
Mr C Magson	Local resident
Mr A Roberts	Barford House

DOCUMENTS

- 1 Unilateral undertaking
- 2 Appellants' list of appearances
- 3 Opening submissions on behalf of the appellants
- 4 Opening statement by the local planning authority
- 5 Letter dated 13 February 2012 and email dated 6 July 2012 from English Heritage
- 6 Barford and Sherbourne Conservation Area designation 1969
- 7 S Northamptonshire Council v SoS for CLG, January 2013
- 8 Yew Walk and Temple photograph, 1912
- 9 Photographs, including aerial views, of Barford House and its surroundings
- 10 Inspector's report on Local Plan Policy DAP10
- 11 Extract from Barford Village Design Statement
- 12 Statement by Dr Christine Hodgetts on behalf of the Warwickshire Gardens Trust
- 13 Statement on behalf of the Barford Residents' Association
- 14 Statement by Mr John Murphy on behalf of the Parish Council
- 15 Statement by Mr Roger Braithwaite
- 16 Booklet entitled 'Becoming Barford'
- 17 Supplementary statement of common ground
- 18 Government Office direction concerning policies saved from the Local Plan

- 19 Statement by Mr Alan Roberts
- 20 Notes on the case of the Attorney-General ex rel Sutcliffe and Hughes v Calderdale Borough Council
- 21 Warwick District Council Strategic Housing Market Assessment March 2012
- 22 Quotation for remedial work to boundaries by Nimbus Conservation Ltd
- 23 Schedule of proposed conditions
- 24 Letter dated 1/3/13 from Localities and Community Safety to the Planning Authority containing archaeological comments
- 25 Closing Statement on behalf of the Local Planning Authority

Richborough Estates